

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 881  
Tuesday, February 10, 2004, 1:00 p.m.  
Francis F. Campbell City Council Room  
Plaza Level of City Hall  
Tulsa Civic Center

**MEMBERS  
PRESENT**

Dunham, Vice Chair  
Stephens  
Turnbo  
White, Chair

**MEMBERS  
ABSENT**

Perkins

**STAFF  
PRESENT**

Beach  
Butler  
Alberty

**OTHERS  
PRESENT**

Boulden, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Friday, February 6, 2004, at 8:14 a.m., as well as at the Office of INCOG, 201 W. 5<sup>th</sup> St., Suite 600.

After declaring a quorum present, Chair, White called the meeting to order at 1:00 p.m.

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Mr. Jim Beach read the rules and procedures for the Board of Adjustment Public Hearing.

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**REQUEST TO CONTINUE AND CASES TO WITHDRAW**

**Case No. 19749**

**Action Requested:**

Special Exception to allow a duplex in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 7; a Variance of required 50' setback for a two-story multifamily dwelling on the west side to 25'. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS; a Variance of the setback for a two-story duplex dwelling from 50' to 10'. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS; and an Approval of an amended site plan previously approved by BOA 19510. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 8, located: 513 – 515 West Newton, and 1003 – 1011 West Newton.

**Presentation:**

Mr. Beach reminded the Board this case was continued to give new notice. They have made further changes and asked to continue to February 24, 2004.

**Board Action:**

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **CONTINUE** Case 19749 to the meeting on February 24, 2004 for further notice, regarding the following described property:

Lots 1, 2 and 3, Block 2 and Lots 1 through 4, Block 1, Osage Place Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 19755**

**Action Requested:**

Special Exception to allow a bar/night club in an IM zoned district. SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 12a, located: 1800 North Sheridan.

**Presentation:**

Mr. Beach informed the Board there was a flaw in the legal description and the case needs to be re-advertised.

**Board Action:**

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **CONTINUE** Case No. 19755 to February 24, 2004 for proper notice: regarding the following described property:

Lots 1, 2, 3, 4, and 5, Block 6, Houston Addition to the City of Dawson, now an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, And That part of the NE/4 SE/4 of Section 13, T-20-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, more particularly described as follows: Beg. at a point 827' S of the NE/c SE/4 of said Section; thence W a distance of 224.50' to a point; thence S 30.00' to the NE/c of Lot 1, Block 6, Houston Addition to the City of Dawson, now an Addition to the City of Tulsa; thence continuing S a distance of 180.40' to the SE/c of Lot 5, Block 6, Houston Addition; thence NEly to a point on the E line of said Section , 191.00' S of the POB; thence N 191.00' to the Point and Place of Beg.. Less and except the E 30.00' thereof.

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**Case No. 19757**

**Action Requested:**

Special Exception to permit an adult entertainment establishment in a CH district within 150' of residential zoned land. SECTION 701. PRINCIPAL USES

PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 12a; a Special Exception to allow required parking to be located on a lot other than the lot with the principal uses. SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS, located: 800 North Peoria.

**Presentation:**

Mr. Beach stated the applicant requested additional notice of a variance of spacing from another Use Unit 12.a; and to continue to February 24, 2004.

**Board Action:**

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **CONTINUE** Case No. 19757 to the meeting on February 24, 2004, regarding the following described property:

S 17' of Lot 13, All of Lots 14, 15, 16, 17, and 18, Block 1, Bullet Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

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**MINUTES**

On **MOTION of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** the Minutes of January 27, 2004 (No. 880).

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**UNFINISHED BUSINESS**

**Case No. 19736**

**Action Requested:**

Variance of the required parking spaces for restaurant from 30 to 15 spaces. SECTION 1212. USE UNIT 12. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS – Use Unit 12, located: 3312 S. Peoria.

**Presentation:**

**Larry Harrell**, 3127 S. Rockford Dr., represented the applicants. Mr. Harrell provided several exhibits prior to the meeting and at the meeting (Exhibits A-1 through A-7), including: mutual access agreement, parking leases, petition, list of days/hours of operation of surrounding businesses, letters of support, existing plan and proposed plan. He stated that part of the hardship is the mutual access easement and few parking spaces immediately next to the building as it has been since the 1980's. He pointed out the two parking leases they obtained from Mecca Coffee; and the former Wendy's location at 3520 S. Peoria, which he indicated would be used for employee parking. He proposed they would have a total of 34



## NEW APPLICATIONS

### Case No. 19754

#### Action Requested:

Appeal of an administrative decision that a violation of the Title 42, Sections 222, 301 and 302 exists on the subject property; located: 11366 East Independence Street.

#### Presentation:

**Don Izett**, 11366 E. Independence, stated he has lived on the property since 1952. They received a voluntary compliance card and they discussed the problem with Paulette Allison. She informed them the vehicles must be parked on an all-weather surface. They were also asked to remove other items from the yard such as a stainless steel sink and camper shell. His father operated Garnett Auto Service on the property since the 1950's but it is no longer a business. His son does work on their own vehicles occasionally. Mr. Izett informed the Board they looked up guidelines for all-weather and complied with the requirements. Ms. Allison inspected and approved the work. Since then another inspector informed them that nothing was right and everything had to be moved. They met with a supervisor but were not satisfied with the outcome. A survey, photographs and a letter were provided (Exhibit B-1, B-2, B-4).

#### Comments and Questions:

Mr. Dunham asked what they are doing specifically on the property presently. Mr. Izett replied they have two farm tractors and a semi-tractor on 6.5 acres. They are not operating a business there. Mr. Boulden asked what material they used for the parking space. Mr. Izett responded it was gravel mixed with a base material.

#### Interested Parties:

**Ed Giehl**, 111 S. Greenwood, stated he is with Neighborhood Inspections. He submitted several exhibits including photographs (Exhibit B-3). He pointed out numerous pieces of heavy equipment, including a fork lift and a semi-tractor, stored on the property not parked on all-weather surface. The items are not customary and incidental to the principle use. The photographs were taken from the street. Mr. Boulden asked for a description of the all-weather surface material, but Mr. Giehl did not see it as he did not go on the property.

#### Applicant's Rebuttal:

Mr. Izett responded that they have parked this same type of equipment since before 1970. He tried to park equipment on his job sites but experienced theft. Mr. Dunham asked where the parking surface was placed. Mr. Izett replied it was about 20' behind the barn.

#### Board Action:







**Presentation:**

**Nan Brainerd** stated she purchased the subject property in 1989. She planned to give her daughter one lot. She misjudged the size of the lot. They are short five feet from the rear setback that adjoins another one of Ms. Brainerd's lots. She does not plan to sell her other lots, as they will go to her children. A site plan and applicant's exhibits were provided (Exhibits D-1 and D-2).

**Comments and Questions:**

Mr. Dunham asked if she owns tracts A, B, C, and D. Ms. Brainerd replied that she owns tracts B, C and D.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Variance** of the required 20' rear yard to 15' for a new dwelling, per plan, finding the lot is shallow; and finding it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

N/2 Lot 2, Block 4, J.E. Nichols Subdivision, City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 19760**

**Action Requested:**

Special Exception to permit a day care center in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; and a Variance of special exception requirements in residential districts. SECTION 404. F. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS; REQUIREMENTS, located: 209 East 52<sup>nd</sup> Place North.

**Presentation:**

**Mattece Mason**, 209 E. 52<sup>nd</sup> Pl. N., stated her proposal to have a day care center. She currently runs an in-home day care. The hours of operation would be 5:30 a.m. to midnight. The front yard would be furnished with Tyke toys. She currently provides transportation for 70% of the children. She has two employees and one vehicle used daily and parked at the home and one backup vehicle. DHS approved her for 45 children in the day care center. She stated she would need a minimum of 30 to make a profit.

**Comments and Questions:**

Mr. White asked if she had talked with her neighbors regarding this plan. She responded that the neighbors all indicated support. Ms. Turnbo commented she



**Interested Parties:**

**Joy McDaniel**, 578 N. 78<sup>th</sup> E. Ave., expressed concern that traffic coming from Easton Street would not be able to see traffic from below the hill. She explained there are no shoulders to the road just ditches. She opposed the mini-storage backing up to her property. She stated she has not received notices of the Board of Adjustment hearings regarding this property. Mr. Beach noted that her property is just outside the 300' radius for notification. She was also concerned about the safety of children from items that might be dumped there. Mr. White replied there would be a six-foot screening fence around the mini-storage.

**Applicant's Rebuttal:**

Mr. Ledford submitted zoning and BOA history (Exhibit E-1). He informed the Board that the plans have been through traffic engineering and transportation. The parking is located on the high side of the lot where sight distance is better. The screening fence is tilt up concrete panels on the outside of the structure that are eight feet in height, which have already been approved.

**Board Action:**

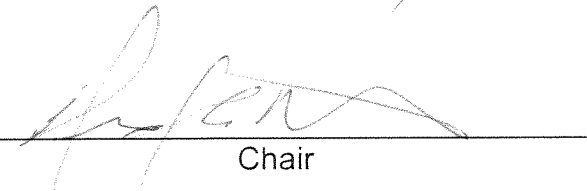
On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a Reinstatement of a previously approved: **Special Exception** to allow a mini-storage in a RM-1 zoned district; a **Variance** of required setback from a freeway service road from 50' to 24'; and a **Variance** of required frontage on and access to an arterial street, finding the street parallels the I-244 and provides sufficient access, on the following described property:

Lots 14 and 15, Bloomfield Heights, less and except a re-subdivision of the E 126.75' of said Lots 14 and 15, City of Tulsa, Tulsa County, State of Oklahoma.

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There being no further business, the meeting was adjourned at 3:25 p.m.

Date approved: FEBRUARY 24, 2009

  
Chair

