

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 892  
Tuesday, July 27, 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  
Paddock

**MEMBERS  
ABSENT**

**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, July 23, 2004, at 1:30 p.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. 19885**

**Action Requested:**

Special exception to add 15' to an existing 122' monopole antenna tower; Special exception to reduce the 110% setback requirement. SECTION 1204.C.3.g. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, located: 8020 S YALE AVE E.

**Presentation:**

Mr. Beach informed the Board the applicant, Kevin Coutant, withdrew the case.

**Board Action:**

No action was needed.

PRT LT 2 BEG SWC TH N335 E280 S89.36 E98.02 S245.6 4 W377.42 POB  
BLK 1, COUNTRY HOLLOW CENTER.

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**Case No. 19854**

**Action Requested:**

Special exception to permit automobile sales in a CS district, variance to permit auto sales within 300 feet of an R district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17; SECTION 1217.C.2. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES, USE CONDITIONS, located: 12835 E 11TH ST S.

**Presentation:**

Mr. Beach reminded the Board this case was continued from a previous meeting. The applicant, John Moody withdrew the case.

**Board Action:**

No action was needed.

W130 SE SE SE SE & E6 SW SE SE SE LESS S50 FOR ST SEC 5 19 14  
.874AC.

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**Case No. 19882**

**Action Requested:**

Variance of required side yards from 10' to 6'-6"; variance of required rear yard from 25' to 12'-8"." SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located: 1389 E 26TH ST S

**Presentation:**

Mr. Beach stated there is a request for continuance to August 24, 2004, to give additional notice.

**Board Action:**

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case 19882 to the meeting on August 24, 2004.

LOT 31, BLOCK 1, TRAVIS HGTS SECOND ADDN

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**Case No. 19877**

**Action Requested:**

Variance of street frontage from 30' to 0'; Variance of lot area from 2 acres to 1 acres; Variance of land area from 2.2 acres to 1 acres; Variance of average lot width from 200' to 95' for lot-split L-19714. SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT, located: 10901 S LOUISVILLE AVE E.

**Presentation:**

Mr. Beach informed the Board that the applicant, John Moody, asked for a continuance to August 10, 2004.

**Board Action:**

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 19877 to the meeting of August 10, 2004.

BEG 991.81E NWC N/2 SE SW TH E325.52 S398.71 W329.99 N398.75 POB &  
BEG 20N SWC N/2 N/2 SE SW TH E987.87 S40 W987.38 N40 POB SEC 28 18  
13 3.91ACS.

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**Case No. 19874**

**Action Requested:**

Appeal from the determination that the operations on the subject property do not violate the light industrial classification. Appellant contends there are environmental influences from emission of odors from the operation of a blast furnace on the subject property, located: 133 S 72ND AVE E.

**Presentation:**

Mr. Beach stated the applicant, Andrew Hartman, requested a continuance to the meeting of August 24, 2004.

**Board Action:**

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to CONTINUE Case No. 19874 to the meeting on August 24, 2004.

LTS 13 & 14 BLK 8, KATY FREEWAY INDUSTRIAL PARK ADDN.

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**Case No. 19868**

**Action Requested:**

Appeal from decision of City of Tulsa to issue building permits, located: 1503 E 26TH PL S.

**Presentation:**

Mr. Beach stated a request for continuance was just presented to him.

**Roy Johnsen**, 201 W. 5<sup>th</sup> St., Ste. 600, stated this case involves property owned by his client. They have been in discussion with the applicant regarding building permits. He was in favor of the continuance.

Louis and Patricia Bullock, 1393 E. 26<sup>th</sup> Pl., were present and in favor of the continuance.

**Board Action:**

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 19868 to the meeting on August 10, 2004.

LTS 3 THRU 5 & E/2 LT 6 BLK 12, TERWILLEGGER HGTS.

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**MINUTES**

On **MOTION** of **Dunham**, the Board voted 4-0-1 (White, Dunham, Turnbo, Stephens, "aye"; no "nays"; Paddock "abstained"; no "absences") to **APPROVE** the Minutes of June 22, 2004 (No. 890).

Mr. Alberty stated that the Board allowed some discussion of the minutes by a previous applicant and interested party at the last meeting. The minutes are not open for discussion, as they are not a public hearing item. The hearing was closed on June 22, 2004.

Mr. Boulden stated his perception was that the applicant was offering to correct an inaccurate representation of what the Board approved. Any information that was not considered by the Board could not be incorporated in the minutes. An additional hearing would need to be conducted for any variance of what the Board decided on June 22, 2004.

On **MOTION** of **Dunham**, the Board voted 3-0-2 (White, Dunham, Stephens "aye"; no "nays"; Turnbo, Paddock "abstained"; no "absences") to **APPROVE** the Minutes of July 13, 2004 (No. 891).

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**UNFINISHED BUSINESS**

**Case No. 19844**

**Action Requested:**

Special exception to allow a home occupation (office use in conjunction with an outcall service); a variance to allow vehicle not customarily found in an R district; and a variance to allow 17 x 32" sign on truck, located: 5815 S 31ST AVE W.

**Presentation:**

**John Harris**, stated he represented the applicant, Kaye Price. The Tulsa Metropolitan Planning Commission determined the use should have been

considered a U.U. 11, which allows for a special exception for a home occupation. He described the business as a call center for the business, and the location from which deliveries are made to the work site. This property has always been used for a commercial purpose. The original use of the property was for a greenhouse. The existing barn was used for a greenhouse. The barn has been used for storage of the batteries. He submitted photographs (Exhibit A-1) to the Board. The batteries are not considered hazardous by OSHA standards (Exhibit A-3) unless put into use. He stated the truck was not oversized for the residential neighborhood. There is a history of businesses in this neighborhood, including Polks 18-wheeler brake service, beauty shops, tire repair, and a tackle shop. This application was prompted by a Neighborhood Inspections Notice of Violation (Exhibit A-2).

#### **Comments and Questions:**

Ms. Turnbo asked if the truck could be parked in the garage. Mr. Harris replied that it could or they would be willing to construct a privacy fence. He added that they have used large vegetation to buffer also. Mr. Boulden asked what is stored in the barn. Mr. Harris responded that they moved the batteries out after the violation notice and the rest is personal items, and hobby collections. Mr. Beach stated he informed the applicant that the phone and office use would fall under a U.U. 11, but the storage and equipment for battery service is more like a U.U. 15.

**Joyce Kaye Price**, 5815 S. 31<sup>st</sup> Ave. W., stated they only load and unload the batteries at the home. She stated they receive calls during regular office hours and after hours. There are no sales on the property. The truck is parked back near the garage and is not visible from the street.

#### **Interested Parties:**

**Chris Medlock**, City Councilor for District 2, recognized this is the sole income of the applicant. He noted that the applicant has done a lot to improve her property and the neighborhood. He commented that she has made a great effort to be in compliance. He indicated the need for some flexibility in this case.

**Katherine Halford**, 5878 S. 31<sup>st</sup> W. Ave., stated opposition to a commercial business in this residential neighborhood. She expressed concern that battery acid is stored in the storage shed, which is a fire hazard. She was concerned about deliveries in a semi-truck at 1:30 a.m. She indicated there were brown spots on the applicant's driveway from spilled battery acid. Ms. Halford stated the road is supposed to be improved in August. She complained there could be up to two deliveries in a day, and the heavy trucks were hard on the road. She submitted a petition of opposition (Exhibit A-4).

#### **Applicant's Rebuttal:**

Ms. Price assured the Board there are no deliveries at 1:30 a.m. She stated the delivery company works normal daytime office hours and they deliver mid-day. She stated that battery acid is not stored on-site. It is in the batteries from the

factory where they are sealed until use. This is the same situation as batteries sold in local stores such as Wal-Mart. She stated the brown spots on the driveway are from washing their truck that has a steel bed that rusts. Ms. Price informed the Board that delivery trucks to the subject property are not heavier than the UPS trucks. She pointed out that Polks Industries drive semi-trucks down S. 31<sup>st</sup> W. Ave. and showed photographs (Exhibit A-5).

**Comments and Questions:**

Mr. Paddock asked if they would store old batteries in the storage building, to which she responded they would not. He also asked about the hours of operation. She stated her hours of operation are 7:00 a.m. to 5:00 p.m.

Mr. Beach clarified to the Board the question is whether battery storage as it has been presented today can be considered part of ordinary office use, and whether the home occupation is appropriate at this location. Mr. Alberty reminded the Board that the storage of batteries falls under a U.U. 23 regardless of the size of the building. In his opinion the battery storage cannot be considered a home occupation. The office use and perhaps the parking of the truck are appropriate for home occupation. Mr. Boulden clarified that the code allows a home occupation to be conducted entirely within an enclosed principle residential structure or a customary accessory building.

**Board Action:**

On **Motion of Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special exception** to allow a home occupation (office use in conjunction with an outcall service); a **variance** to allow vehicle not customarily found in an R district; and a **variance** to allow 17 x 32" sign on truck, on condition it be parked as shown in the photo exhibit that the sign not be visible from the street; and no battery storage on the premises; and to Uphold the decision of the Administrative Official as modified by the motion, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

LT 4 & N 25' LT 5 BLK 3, SUMMIT PARKS.

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**Case No. 19846**

**Action Requested:**

Special exception to allow a Use Unit 12a, Adult Entertainment Establishment, in an IM zoned district. SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 12a, located: 3306 W CHARLES PAGE BLVD.

**Presentation:**

**Angela Williamson**, 4791 S. Braden, stated she is one of the owners of a photography business. She stated she does burlesque and other types of photography. She informed the Board that in this studio they plan to do mainly boudoir style photography. They have been advised they need a sexually oriented business license and this special exception. Ms. Williamson stated there would be no outside signage. All photography would be by appointment through their website.

**Comments and Questions:**

Mr. White asked if they contacted neighbors, to which she responded in the affirmative. Ms. Williamson mentioned there will be gallery showings once per month by invitation to their website clients to view their facility and purchase discounted packages. The gallery evenings would be on Friday or Saturday nights from 8:00 p.m. to midnight. The maximum number of customers would be 25 to 30 people.

Mr. Alberty stated that based on the applicant's description indicates it would be classified as a model studio, which would be a sexually oriented business. It would require a 1,000' separation from residential zoning. In that case, there would not be a location on this property that would be 1,000' from the residential area. He added for that reason alone it could not be located there. Mr. Beach stated he attempted to reach the applicant numerous times to inform them of the need for additional relief. Ms. Turnbo stated she would want to know the specific distance from the residential zoning. Mr. Boulden also mentioned the ordinances regarding distance from other sexually oriented businesses. Mr. Beach asked if the Board was to continue the case that it be moved to the first meeting in September to give ample time for advertising.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 19846 to the meeting on September 14, 2004.

BEG 114.32NE INTSEC WL SW & MEANDER COR GOV LT 5 T H ALG ML  
NE479.68 NE52.80 NE106.10 TH N226.02 TO S R/W SSRR TH ALG R/W  
SW361.21 SWLY CV LF 266.96 SW 124.44 TO WL LT5 TH S130.72 NE114.9  
S88.62 POB SEC 3 19 12 3.813ACS.

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**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of average lot width from 60' to 50' to permit a lot split, per plan, finding even the smaller lot would be equal to the average lot width in the area, on the following described property:

E 83 S 154.25 LT 15, and PT LT 18 W 30 OF S 149.25, OZARK GARDEN FARMS.

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**Case No. 19876**

**Action Requested:**

Variance of required rear yard from 20' to 8.8'; Variance of required side yard from 5' to 4.5'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located: 1509 E 19TH ST S.

**Mr. White abstained from Case No. 19876.**

**Presentation:**

Lou Reynolds, 2727 E. 21<sup>st</sup> St., stated he represented the applicant, Lon Foster. The existing house was built over a setback line. The owner proposed to build an addition. This Board previously approved a rear yard setback. The Historic Preservation Board approved these plans. They obtained approval for a building permit subject to approval of the relief requested. The hardship is the irregularly shaped lot. The neighbors to the west expressed support of this application.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **Motion** of **Turnbo**, the Board voted 4-0-1 (Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; White "abstained"; no "absences") to **APPROVE** a **Variance** of required rear yard from 20' to 8.8'; **Variance** of required side yard from 5' to 4.5', per plan, finding it would blend in with the older neighborhood; 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:



BEG NEC NE SE TH S835 W521.68 N835 E521.68 POB SEC 14 19 14  
10ACS.

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**Case No. 19884**

**Action Requested:**

Special Exception to permit children's nursery in an RS-3 district; variance of the required 25' setback from west property line to 5.3'. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS; SECTION 404.F. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located: 4817 E KING ST N.

**Ms. Turnbo out at 3:05 p.m.**

**Presentation:**

Mr. Beach informed the Board that he received a request for a continuation on Case No. 19884.

**Board Action:**

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Stephens, Paddock "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 19884 to the meeting on August 10, 2004.

ALL LT 9 & PRT LT 10 BEG NWC LT 10 TH SELY10.67 SW LY TO PT N70  
POB LESS PRT LT 9 BEG SECR LT 9 TH NL Y70 SWLY TO PT SELY10.67  
POB BLK 2, MODERN HGTS.

**Ms. Turnbo returned at 3:06 p.m.**

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**Case No. 19879**

**Action Requested:**

Special Exception to permit a home occupation (beauty shop) in a RS-3 zoned district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS, located: 2203 S WINSTON AVE E.

**Presentation:**

**Ginger Joiner**, 2203 S. Winston Ave., pointed out the location of her home to the Board. She informed the Board the home occupation was to be a limited part-time business. She did not plan to have a sign. She would have customers by appointment only, two days per week, maximum of six per day. The services would be limited to color, cut and style. The customers would enter from the side of the house and they would be able to park in her driveway. She submitted a site plan, new conditions and photographs (Exhibit F-1, 2, & 3). The hours of operation would be Tuesdays and Saturdays, 8:00 a.m. to 5:00 p.m. The appointments

would be scheduled at least 15 to 20 minutes apart, one client at a time. She did not plan to have an employee.

**Interested Parties:**

**John Nidiffer**, 4720 E. 21<sup>st</sup> Pl., stated his father built the Mayo Shopping Center. He stated he felt protective of the neighborhood. He was in the process of redeveloping the center with consideration for the neighborhood. The entrance to the center from Winston was for the convenience of the neighbors. He expressed concern for the precedent this application might set, and the traffic problems caused by customers choosing to park on the street.

**Michael Bates**, 4727 E. 23<sup>rd</sup> St., stated he usually approved of home occupations. He asked for a restriction of two years for this home occupation if it was approved to allow for a review of the impact on the neighborhood; that it stay with the current owner of the property and remain a beauty shop only with required parking in the driveway only.

**Judy Jenkins**, 2218 S. Winston, expressed concern for the impact on property values, commercial zoning, and parking off-street. She pointed out that traffic is heavier on Winston Ave. on Saturdays.

**Clay Roberts**, 2209 S. Yale Ave., stated that after hearing the presentation he had no objection to the application.

**Applicant's Rebuttal:**

Ms. Joiner responded this would be a very limited business in days and clients. She stated it would take about 100 days to open the shop.

**Board Action:**

On **Motion of Turnbo**, the Board voted 4-1-0 (White, Dunham, Turnbo, Stephens, "aye"; Paddock "nay"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a home occupation (beauty shop) in a RS-3 zoned district, with the hours submitted by the applicant, on two days per week, one customer at a time with 15 – 20 minutes between customers, parking only in the driveway, and following all home occupation guidelines, on the following described property:

LT 1 BLK 9, MAYO MEADOW EXTENDED

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**Case No. 19880**

**Action Requested:**

Special Exception to permit a single-family residence in a CH zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS, located: 212 E 16TH ST S.

**Presentation:**

Beverly Carson, stated she represented Kerry Carson, who lives on the subject property.

**Mr. Stevens out at 3:32 p.m. and returned approximately 3:34 p.m.**

They proposed to enlarge the house with an addition to the back of it. She stated that because of the CH zoning she was told to apply for a special exception.

**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, Paddock "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Special Exception** to permit a single-family residence in a CH zoned district, finding this is to correct an existing condition, on the following described property:

E 40 OF LT 4 BLK 12, MAPLE PARK ADDN.

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**Case No. 19881**

**Action Requested:**

Special Exception to permit a home occupation (hair salon) in an RM-2 district, Variance of home occupation guidelines to permit 1 employee. SECTION 402.B.6.b. ACCESSORY USES IN RESIDENTIAL DISTRICTS; SECTION 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located: 1515 S CARSON AVE W.

**Presentation:**

**Terry Parker**, 1515 S. Carson, proposed to open a small salon in his home. He and his roommate would do hair, facials, and massages. They would provide three parking places in the back of the property. They plan to have thirty minutes between clients. They need one employee to do laundry, and cleaning between customers. The hours of operation would be Tuesday through Saturday, 10:00 a.m. to 8:00 p.m. The entrance would be at the back of the house. He wanted to put a small sign on the gate to indicate the entrance to the parking. There will be someone living in the guest house and if they are home during business hours they will park in his driveway not at the back.

**Comments and Questions:**

Ms. Turnbo asked if he had talked with the neighbors. Mr. Parker replied that he had talked with neighbors and they were in support. Mr. Beach noted that no relief was requested for a sign.

**Interested Parties:**

**Tracy Horner-Shears**, 1522 S. Carson, submitted letters of support, and a letter stating conditions they would want on the approval (Exhibit G-2 and G-3). She stated that the neighborhood's concerns are for preserving the historic value; increased traffic flow and on-street parking. She added that the applicant had addressed the concerns to their satisfaction. The homeowner's association has no objection to the application.

**Board Action:**

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a home occupation (hair salon) in an RM-2 district, with conditions for one customer at a time; days/hours of operation Tuesday through Saturday, 10:00 a.m. to 8:00 p.m.; thirty minutes between clients; and the conditions listed in the neighborhood association letter, which are the zoning code home occupation guidelines, on the following described property:

**Amendment to Motion:**

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a home occupation (hair salon) in an RM-2 district; and a **Variance** of home occupation guidelines to permit one employee, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, with conditions for one customer at a time; days/hours of operation Tuesday through Saturday, 10:00 a.m. to 8:00 p.m.; thirty minutes between clients; and the conditions listed in the neighborhood association letter, which are the zoning code home occupation guidelines, except to allow one employee, on the following described property:

N 35 LT 9 S 25 LT 10 BLK 2, STONEBRAKER HGTS ADDN.

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**Case No. 19883**

**Action Requested:**

Variance of requirement that a bar be 300 feet from any other Adult Entertainment Establishment, Variance to permit a reduction in required parking requirement, Special Exception to permit required parking on a lot other than the lot containing the use. SECTION 1212a.C.3.c. USE UNIT 12a. ADULT ENTERTAINMENT ESTABLISHMENTS, Use Conditions; SECTION 1212a.D. USE UNIT 12a. ADULT ENTERTAINMENT ESTABLISHMENTS; Off-Street Parking and Loading Requirements; SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING, General Requirements, located: 1740 S BOSTON AVE E.

**Presentation:**

John Duvall, 123 E. 21<sup>st</sup> St., stated he is an architect and a partner in the proposed business. This is a proposed upscale night spot that will serve fine wine, cocktails and bottled beer. He noted the surrounding commercial businesses and fire station. They have 62 existing parking spaces to the north, and an access agreement with the owner of an existing parking lot at the southwest corner across the street between the hours of 6:00 p.m. and 2:00 a.m. A copy of the access agreement was provided. They would not have a kitchen so they would not serve food.

The land owner had no objections to the application.

Discussion ensued.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of requirement that a bar be 300 feet from any other Adult Entertainment Establishment; a **Variance** to permit a reduction in required parking requirement; and a **Special Exception** to permit required parking on a lot other than the lot containing the use, on conditions that availability of parking as submitted remain available for this use; operation will be open 2:00 p.m. to 2:00 a.m., seven days per week, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

LT 5 LESS BEG NEC TH S50 W TO PT TH ON CRV LF TO POB, BLK 2,  
STUTSMAN ADDN

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**Case No. 19886**

**Action Requested:**

Variance of the required number of parking spaces from 138 to 122. SECTION 1211. USE UNIT 11. OFFICES STUDIOS AND SUPPORT SERVICES, located: 3612 E 91ST ST S.

**Presentation:**

**Doug Huber**, 10129 S. Joplin Ave., stated that his client, the Fitzgerald Funeral Home, proposed to build an addition to their structure. It would be a dining hall to serve meals after funerals to the family. They would meet the parking requirements. They would be serving the same people attending a funeral so there would not be additional need for parking. The dining room and chapel cannot be used at the same time. A site plan was provided (Exhibit H-1).

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the required number of parking spaces from 138 to 122, per plan, finding the addition would serve the same people present at a funeral; and it would be difficult to add any more parking due to the topography of the land, on the following described property:

LT 1 BLK 1, FITZGERALD FUNERAL HOME

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**Case No. 19888**

**Action Requested:**

Special Exception to amend a previously approved site plan. SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 19, located: 19003 E ADMIRAL PL S.

**Presentation:**

**Ted Sack**, 111 S. Elgin, provided the final design for a motel (Exhibit I-1). The main change was the location of a detention, which is underground, and some parking added.

**Comments and Questions:**

Mr. Alberty noted there were twelve less parking spaces. Mr. Sack responded they exceed the parking requirement of 80 spaces with 98 spaces. Mr. Alberty asked if there were to be any restaurants. Mr. Sack replied no restaurants.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to amend a previously approved site plan, per plan, on the condition the applicant complies with the required parking spaces, on the following described property:

BEG 269.45 W NEC LT 2 TH W185.17 S701.25 E185.17 N 701.25 POB LESS  
HWY SEC 1 19 14

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**Case No. 19894**

**Action Requested:**

Requests a variance of the hard surface dust free parking to allow gravel parking. SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS, located: 3810 W SKELLY DR.

**Presentation:**

**Lloyd Anderson**, 3810 W. Skelly Dr., explained to the Board that it would be a waste to put in a hard surface because the trucks would cause it to break up and make pot holes. He indicated it would not be appropriate for this lot.

**Comments and Questions:**

Mr. Boulden asked if there was any litigation regarding this property. Mr. Anderson indicated there was a current court case. Mr. Alberty understood that action on this application is required for resolution of a court case.

**Interested Parties:**

**Jerry Lake**, 4021 W. 52<sup>nd</sup> Pl., stated he owns property abutting the subject property. The subject property is heavily covered with semi-trailers and some kind of parts and junk equipment. He was not concerned whether the lot is paved or not.

**Comments and Questions:**

Mr. Beach noted that no hardship was given.

**Board Action:**

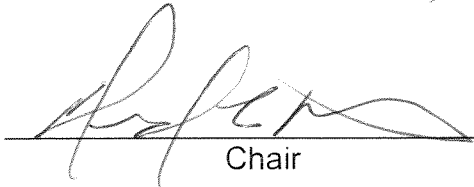
On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Variance** of the hard surface dust free parking to allow gravel parking, finding lack of a hardship, on the following described property:

PRT LTS 1 2 3 & ALL LTS 9 THRU 16 BLK 16 BEG SECR LT 1 TH N75  
WLY122.22 WL LT 3 SW75.5 SWC LT 3 SW T O SWC LT 9 E256 N140 POB &  
ALL VAC 52ND ST BTW BLK, SOUTH HAVEN AMD

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There being no further business, the meeting was adjourned at 4:36 p.m.

Date approved: August 10, 2009

  
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Chair

