

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 894
Tuesday, August 24, 2004, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Vice Chair
Paddock
Stephens
Turnbo
White, Chair

**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 Thursday, August 19, 2004, at 8:12 a.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

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

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

REQUEST TO CONTINUE AND CASES TO WITHDRAW

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: 4133 South 72nd Avenue East.

Presentation:

Mr. Beach stated the applicant made a request for a continuance to September 28, 2004, and that would be the second request. This is an appeal of the decision of an Administrative Official with Neighborhood Inspections. The Zoning Code requires the Board to take action on a case within ninety days of the filing date. The continuance allows the violation to go on.

Melinda Martin, P.O. Box 700450, Tulsa, Oklahoma, stated she was the attorney for the applicant. She indicated the administrative decision was a finding of no

violation, but her client contends the decision was in error. Mr. White asked if the Department of Environmental Quality was involved in this case. She responded that a request was made for them but she did not believe they have taken action. Ms. Martin asked if the ninety day limit could be waived. Mr. Boulden stated the limit was to ensure the applicant a speedy action. If the applicant wished to waive it that is their prerogative and it should be included in the record.

Terry Thomas, 321 S. Boston, Ste. 500, stated he represented Tulsa Litho, and they were in agreement with the waiver for a continuance past thirty days.

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 September 28, 2004.

LTS 13 & 14 BLK 8, KATY FREEWAY INDUSTRIAL PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma.

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MINUTES

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of August 10, 2004 (No. 893).

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UNFINISHED BUSINESS

Case No. 19882

Action Requested:

Variance of required side yards from 10' to 5'-0"; variance of required rear yard from 25' to 12'-8". SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located: 1389 East 26th Street South.

Presentation:

Pat Fox, 1850 South Boulder, stated he is an architect and represented the owners of the subject property. A site plan was provided (Exhibit A-1). The existing structure was built in the 1920's. They proposed to construct additions to the house. There is an existing detached two-car garage within five feet of the rear property line. They plan to tear it down and build a new two-car garage large enough for newer model cars. A letter of support was provided (Exhibit A-2).

Comments and Questions:

Mr. White asked about the neighbors on the west. Mr. Fox replied that they checked with the neighbors on the west and to the rear of their property, both gave their support also. Mr. Boulden asked for the hardship. Mr. Fox responded that the placement of the house on the lot limits the space for addition and is unusual in the neighborhood. Mr. Boulden noted an indication of an old lot-split on the east property line. Mr. Fox replied that it was split to allow the neighbor to add an adequate garage.

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, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of required side yards from 10' to 5'-0"; and a **Variance** of required rear yard from 25' to 12'-8", per plan, finding other similar variances have been approved in this neighborhood, and the placement of the house on the lot, on the following described property:

LOT 31, BLOCK 1, TRAVIS HGTS SECOND ADDN

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Case No. 19862

Action Requested:

A variance of the required number of parking spaces from 14 to 13. SECTION 1211. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES, located: 9202 South Toledo Avenue East.

Presentation:

Danny Mitchell, 5110 South Yale, Suite 510, stated he is the architect for the project. He referred to the discussion concerning the existing easement in the previous meeting. They discovered the easement is not platted or recorded in the PUD of the property. It is a requirement in the restrictive covenants, which he read (Exhibit B-1). The revised site plan shows the required parking spaces. He submitted a letter from the owner of the property on the north in support of the application.

Comments and Questions:

Mr. Beach stated the relief requested is no longer needed since they are providing the required fourteen parking spaces.

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") in agreement that no relief is needed for parking on the following described property:

LT 7 BLK 1, ASHTON CREEK OFFICE PARK

Case No. 19868

Action Requested:

Appeal from decision of City of Tulsa to issue building permits, located: 1503 East 26th Place South.

Presentation:

Louis Bullock, 1393 East 26th Place, stated they have resolved the issues and withdrew the appeal.

Board Action:

No action was needed, on the following described property:

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

Case No. 19893

Action Requested:

Variance of required average lot width from 60' to 40.47' for westerly tract and 45.71' for easterly tract in an RS-3 zoned district to permit a lot split. SECTION 403 BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS, located: 1025 East 33rd Place South.

Presentation:

Mr. Beach reminded the Board this case was continued so the applicant could prepare a survey. It has been done and the revised average lot widths are: Tract A – 50.33' and Tract B – 51.93'.

Dean Solberg, 5711 East 71st, Suite 100B, stated he was the attorney for the applicant, Shannon Walker. The surveyor estimated that 70' from the rear property line would be affected by the 100-year floodplain. The existing structure is not in the 100-year floodplain. They intend to bulldoze the property and build two new homes, no further back than the existing structure. A site plan, survey and map were provided (Exhibits C-1, C-2 and C-3).

Mr. White abstained from Case No. 19893.

APPROVE an amendment to a previously approved site plan, per plan submitted this day, on the following described property:

BEG NWC LT 2 TH S246 E330 N23 E121 SE ON CUR 43.98 E145.8 S109.5
E63.6 S109.5 E526.35 N470 W1218.36 POB SEC 18 19 13

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Case No. 19896

Action Requested:

Special Exception to permit pre-owned auto sales in a CS District SECTION 701 -- PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS -- Use Unit 17, located: 19298 East Admiral Place South.

Presentation:

Jerry Russell, P.O. Box 1065, Pryor, Oklahoma, 74361, stated the property is vacant. It was recently the location for a Citgo convenience store. Mr. Russell represented a Dodge/Chrysler/Jeep Dealership that proposed to open a used car lot. The existing building would remain and the fuel tanks would be removed.

Interested Parties:

Paul Neely, 1914 Memorial Drive, Claremore, Oklahoma, stated he is the owner of the property and in support of the application.

Janet Evans, 330 South 185th East Avenue, stated she spoke for several of her neighbors and herself. They object to the application as inappropriate. She stated they already have two used car lots in the area, one of which looks really bad. She suggested retail or restaurant use would be more beneficial for tax revenue and convenience for nearby Tulsa residents. Ms. Evans pointed out it would be the first view of Tulsa for highway traffic coming from the north and east.

Applicant's Rebuttal:

Mr. Russell responded that no other businesses are interested in the subject property so otherwise it would be vacant.

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 pre-owned auto sales in a CS District, with conditions: no repairs on the premises; maximum three-foot height pipe fence; no inoperable vehicles stored on the property, on the following described property:

LOT 1 BLK 1, ROLLING HILLS CTR ADDN

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Case No. 19899

Action Requested:

Special exception to amend a previously approved site plan, located: 4502 East 41st Street South.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, for the University of Oklahoma, proposed an addition of a research/medical clinic and a garage structure to the existing campus. He referred to the site plan and applicant's exhibits (Exhibits G-1, G-2 and G-4) showing the location of the new structures on the west side of the property. The rows of trees would remain as a buffer to the residential properties. The drive from 41st street to the garage would be moved 160' to the east to keep it as far from the residential neighborhood as possible. The drive would line up with Toledo to permit the installation of a signalized intersection if the City of Tulsa Traffic Engineering Department deemed it warranted. They propose a 145 foot setback for the clinic and a 135 foot setback for the garage. Only required emergency exits would be located on the west side of the clinic and garage. Mr. Norman pointed out that the property is zoned for scientific research and permits medical offices, clinics and parking structures by right. The required setback for a private research clinic is only 90 feet and for the garage 50 feet. The garage will be a three-story structure, and is designed to keep headlights from shining into the residential area to the west. The plans protect the neighbors to the west by prohibiting lights of any kind in the west one hundred feet. One or two small buildings will be removed for the new road. He pointed out the storm-water detention area on the north. The plans include other buildings to be constructed in the future at which time the applicant would come back to the Board with detail site plans.

Comments and Questions:

Mr. Boulden mentioned the residential neighbors complained of the use of a street cleaner at night in the parking garage at Promenade Mall. He suggested it may raise some questions in this case. Mr. Norman noted that particular garage is only about 75 feet from the homes, but the applicant would be open to a limitation on the hours a street sweeper could be used. Mr. Stevens asked about the hours of operation for the clinic. Mr. Norman replied this clinic would not have emergency services and would only be open during daytime office hours.

Interested Parties:

Carla Agnew, 4425 South Sandusky Avenue, pointed out all of the commercial activity at the corner of 41st Street and Yale Avenue. She complained that the traffic cuts through on 45th to miss some of the congestion. She stated that by 3:00 p.m. when the hospital and medical clinics have shift changes and closings the traffic picks up even more. She stated the traffic on the primary arterials block the intersection when the light changes so they have a difficult time driving out of the neighborhood. She also mentioned the lack of privacy in their yards and pools.

Mark Bransford, 4127 S. Sandusky Avenue, objected to the application. He referred to a letter from the University of Oklahoma in 1999 (Exhibit G-3) stating the university did not intend to construct any buildings along 41st Street or adjacent to the west and south fence lines. He indicated that the information regarding the streets and traffic presented at this meeting was not the same as presented to the neighborhood association. He also mentioned similar objections to the previous speaker.

Joanne Newman, 3137 South Sandusky Avenue, protested the use of the west campus for a clinic and parking garage. She expressed concern regarding pollution from vehicles, the proximity of public activity, trash accumulation, storm water drainage, and traffic problems. A letter was provided (Exhibit G-3).

Mr. Paddock out at 2:44 p.m.

Connie Baker, 4149 South Sandusky Avenue, informed the Board that they already have a problem with air circulation in their back yards. She indicated the new structures would restrict it even more.

Mike Agnew, 4425 South Sandusky Avenue, asked if there is a traffic plan and an environment plan.

Mr. Paddock returned at 2:46 p.m.

Mr. Beach suggested Tim Armer at INCOG or the City of Tulsa Transportation Department would have more information on the traffic plans in this area.

Ms. Agnew stated they have no traffic signals to help them get out of the subdivision.

Applicant's Rebuttal:

Mr. Norman noted that the back yard fences with the exception of one along the west property line are chain link. They have had the benefit of the open park-like atmosphere on the campus. The double row of trees would still be there to preserve that look and buffer the view of the structures. He stated that 300 to 500 patients per day would be spread out over a whole day and does not equal one per minute. He was personally impressed with the clean atmosphere of the campus.

Comments and Questions:

Ms. Turnbo asked if they had considered using the north side of the property. Mr. Norman replied that this is the front door of the campus and administrative offices. The water detention areas are located there. Mr. Dunham asked why they did not build these buildings on the Yale Avenue side. Mr. Norman replied this was an administrative decision. He added that future plans include a library, auditorium, and further classroom space on the east side. Mr. Dunham asked about the traffic plans. Mr. Norman stated the idea of a traffic signal at the intersection of Toledo

and 41st Street would be to provide traffic breaks to allow the traffic of the subdivision to move in and out. Ms. Turnbo appreciated the added landscaping that was to be planted to give more of a buffer.

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 the plans exhibits A, B, C and D and development guidelines submitted this day, with conditions, including:

DEVELOPMENT STANDARDS

Architectural:

The west walls of the medical clinic and research facility and the parking structure shall be substantially as shown on Exhibit B, West Clinic and Parking Structure Elevations. The walls of the parking structure shall be designed to prevent automobile headlights from shining into the residential neighborhood to the west.

Maximum Building Floor Area:

Medical clinic and research facilities	100,000 SF
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Maximum Building Height:

Medical clinic (excluding mechanical equipment penthouse)	55 FT
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Parking structure	28 FT
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Parking structure elevator towers - east side	40 FT
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Minimum Building Setbacks from the West Property Line:

Medical clinic and research facility	145 FT
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Parking structure	135 FT
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Off-Street Parking:

Off-street parking shall be provided in the parking structure adjacent to the medical clinic and research building as required by the applicable use unit of the Tulsa Zoning Code.

Landscaped Open Space:

Landscaped open space shall be provided and maintained along the west boundary of the Schusterman Center as shown on Exhibit C-1 - West Boundary Landscaping Details - North, and Exhibit C-2 - West Boundary Landscaping Details - South.

Lighting:

No light standards shall be permitted within 100 feet of the west boundary of the Schusterman Center.

The maximum height of light standards within the remainder of the campus shall be 15 feet.

Shielding of all lights, including overhead lights within the parking structure, shall be designed so as to prevent the light producing element or reflector of the light fixture from being visible to a person standing in the adjacent residential neighborhoods.

The building and the parking lot are on two separate lots though directly adjacent to each other. He stated the anticipated use is clearly not injurious to the neighborhood. The parking lot to the rear has been used as such for many years. The hardship is the location on Brookside.

Mr. White returned at 3:15 p.m.

Pete Sandshaper, 233 South Quebec, clarified the location and division of the building.

Comments and Questions:

Mr. Paddock asked if this was a bar or restaurant. Mr. Sandshaper replied this is a bar and grill. They will serve sandwiches and hotdogs. He added they have approval from the health department. Mr. Levinson stressed this would be a Use Unit 12 not a Use Unit 12a. It will meet all of the provisions in the code for a full-time chef and menu. Mr. Paddock mentioned the neighbors' concern regarding the past history of trash on the property. Mr. Sandshaper responded that they hire a person to keep their property clean.

Interested Parties:

Beverly Stewart, 3816 East 111th Street, stated she represented the owner of the property to the north, occupied by a night club known as Suede. When the zoning requirements changed regarding parking they obtained a special exception for off-site parking. The mixed use of retail, sandwich shop and one night club was approved by the Board because of the difference in their hours of operation. The use of the parking lot by two night clubs would conflict with the previously approved mixed use. She asked for a denial because of the potential to add increased traffic and parking during the evening hours.

Tony Henry, 1303 South Lawton Avenue, stated he is the owner of Suede Martini Lounge. They use 63 of the parking spaces in this parking lot and 33 spaces on another lot. Another business using the lot during the same hours of operation would directly conflict, as they use 100% of the lot on Friday and Saturday nights plus the other 33 spaces across the street.

Applicant's Rebuttal:

Mr. Levinson agreed with Ms. Stewart that the business has been in the area for sixty years and they only recall the police being called once or twice in the last thirty years. The owners of this business are known and they have had the support of the neighborhood association despite the parking.

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 required parking spaces from 26 to 21 spaces in a CH district, finding Brookside is an area where over the years numerous variances

Mr. Beach referred the Board to the information in the agenda packet and opened the item for discussion.

Mr. Alberty stated the City Council asked the Board to review certain uses that required spacing. The information provided was recommended by the legal department. He suggested the amendment should say, 'any principal use'. This means that any Use Unit 12a, bar, tavern, nightclub, or sexually oriented business will have to appear before the Board of Adjustment to verify the spacing. He indicated it would probably be advisable to have a policy that spacing be verified by an actual survey. This amendment will require this step prior to obtaining occupancy.

Mr. Boulden indicated this would provide advance notice to the property owners within a three hundred-foot radius of the project.

There being no further business, the meeting was adjourned at 3:48 p.m.

Date approved: SEPTEMBER 14, 2009



Chair