

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 895
Tuesday, September 14, 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
Matthews

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Wednesday, September 8, 2004, at 2:49 p.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. 19905

Action Requested:

Variance of required lot area from two acres to 1.4 acres; a Variance of land area per dwelling unit from 2.2 acres to 1.4 acres; and a Variance of required frontage on a public street or ROW from 30 ft. to 0 ft., located: 8421 South Maybelle Avenue West.

Presentation:

Mr. Beach informed the Board that the applicant has withdrawn this application.

Board Action:

There was no action required.

PRT S/2 NE BEG SWC S/2 NE TH N835.06 E250 S794.15 E673.98 NE773.59
SE161.37 CRV LF 102.06 NE183.38 N 272.20 E541.37 NE277.42 E569.45 S60

W483.83 SW266 E48.26 SW213.54 W394.41 SW34.96 S635.77 E1037.41 S
81.62 W250 S95 W2405.30 TO POB SEC 14 18 12 25.995 ACS.

MINUTES

Mr. Paddock asked for an amendment to the meeting minutes of August 24, 2004 regarding Case No. 19893. He wanted his comments regarding not allowing a duplex to be built on the two lots to be added.

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of August 24, 2004 (No. 894) as amended.

UNFINISHED BUSINESS

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; and a Variance of the required spacing of 1000 feet. SECTION 705. LOCATION OF SEXUALLY ORIENTED BUSINESSES, located: 3306 West Charles Page Boulevard.

Presentation:

The applicant left the building without presenting the case. Mr. Boulden commented the applicant did not give a verbal statement of withdrawal. Mr. Beach reminded the Board the application was made in May 2004 and the ninety-day time limit was already exceeded. Mr. White stated they would need to re-apply to be heard again.

Interested Parties:

There were approximately 30 to 40 people present in opposition to the application.

Board Action:

There was no action required.

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.

Case No. 19896

Action Requested:

RECONSIDERATION of a 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:

Councilor James Mautino, stated he was not able to attend the last meeting due to a schedule conflict and he submitted a request for reconsideration of this case. He considered this project to be counter-productive to the changes in this part of Tulsa. He submitted photographs of the area (Exhibit A-1). He stated the area has potential for more retail business with the new casino. Mr. Mautino expressed concern that it would have the same appearance as the other car lot across the corner from the subject property.

Comments and Questions:

Mr. White read the Board action on this case to emphasize they are not allowing other Use Unit 17 uses, just a car lot with pre-owned cars with conditions, no repairs on the premises; maximum three-foot high fence; no inoperable vehicles stored on the property. Mr. Stevens stated that he has seen this company's other lots and they appear to be first-class operations. This would be a lease situation so the owner could determine what he wants to do with the property. Mr. Stevens commented that the car business generates sales tax. He also thought that the plans to remove the existing storage tanks would prevent future problems for the area. He felt that the highest and best use with the market will determine what remains there. Mr. Mautino indicated that a pipe fence would cut off access to the shopping center. Mr. White responded that access was already available from 193rd and Admiral. He added that, in theory, traffic across the subject property would be trespassing. Ms. Turnbo asked if Mr. Mautino had spoken with the owner, because she remembered hearing that the owner did not have a lot of offers for business on this property.

Interested Parties:

John Moody, 1800 South Baltimore, Suite 900, stated he represented the original applicant, Mr. Russell. He added that Paul Neeley, the owner of the property was also present. Mr. Moody did not believe there was any new evidence to present as it was fairly presented at the last meeting and the one interested party was heard. Mr. Moody understood scheduling conflicts and the procedure is to request a continuance. There is now a real hardship for the applicant because the lease was signed with no contingencies after the ten days for the appeal and before he learned of the request for the reconsideration. They have already removed the three underground storage tanks, and spent \$30,000 on the site. He discovered that Mr. Neeley only had three other reasonable offers and they were all used car dealers. The applicant complied with all of the requirements of the staff and Board of Adjustment and thought they had it approved. He reminded the Board of the retail businesses and two of them are Use Unit 17. Mr. Moody stated that if the

Board chose to reopen the case it would not send the message that Councilor Mautino wants. He submitted photographs (Exhibit A-2) indicating more industrial use in this area and not the type of businesses that would attract the high quality retail. He added that this case was heard and everything was done correctly.

Applicant's Rebuttal:

Mr. Mautino agreed there is more industrial to the west of the property, but there was a Wal-Mart previously. He did not want a business to come in that would create a different image when there is potential for recovery in this area. He mentioned the future widening of 193rd Street that would access two parks where tournaments are held.

Board Action:

No motion was made to reconsider Case No. 19896.

LOT 1 BLK 1, ROLLING HILLS CTR ADDN, City of Tulsa, Tulsa County, State of Oklahoma.

NEW APPLICATIONS

Case No. 19901

Action Requested:

Variance of rear yard setback from 25'-0 to 12'-6" to permit an addition in an RS-1 district -- Section 403.A. Bulk and Area Requirements in the Residential Districts - Use Unit 6; and a Special Exception to expand a non-conforming structure. SECTION 1405.A. STRUCTURAL NONCONFORMITIES, located: 3411 South Birmingham Avenue East.

Presentation:

Rick Stuber, 1221 East 33rd, stated he is an architect. The property was originally platted with a 25' front yard setback and no rear yard setback. It was built in 1950. The current zoning code requires a 35' front yard setback and a 25' rear yard setback. They asked to remove the non-conformity and to add on a master bath on the east side and allow the front yard setback variance based on the original plat. The positioning of the addition is to avoid removal of some mature oak trees. He indicated there are two non-conforming structures immediately adjacent to the subject property. Photographs and a site plan were provided (Exhibits C-1 and C-2).

Interested Parties:

Yolan Whitmore, 2615 East 35th Street, stated her property abuts on the east of the subject property. She stated she objected to the two non-conforming structures that Mr. Stuber mentioned. She referred to the large oak trees mentioned, stating that one oak is dead and the other two are dying. They have

been cut back for power lines and have vines growing up through them. She objected to a variance of the rear setback.

Gene Chapman, 2631 East 35th Street, stated he lives three lots east of the subject property. He was impressed with the setbacks when he bought his property. He understood there were reasons for the zoning code requirements and asked the Board to deny the variance requested.

Comments and Questions:

Mr. White asked if the storage building would be removed. Mr. Stuber replied that all three of the accessory buildings were going to be removed.

Applicant's Rebuttal:

Mr. Stuber responded that the owner and her lawn service have not reported any death or decay in the oak trees. The proposed addition would be in the same location as the metal buildings and would be a safer condition and built to code. There have been similar variances approved in this neighborhood. Mr. Dunham asked if the addition was to be 13.8' or 12.6'. Mr. Stuber asked for the 12.6' actual setback and 13.8' would be for the footprint.

Mr. Boulden and Mr. Beach agreed that the special exception was improperly advertised and needs to be re-advertised as a variance.

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 rear yard setback from 25'-0 to 12'-6" to permit an addition in an RS-1 district, per plan; and to **CONTINUE** Case No. 19901 for re-advertising of a Variance to expand a non-conforming structure, on the following described property:

LT-11-BLK-5, TIMBERLAND ADDN.

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Case No. 19902

Action Requested:

Variance of regulation limiting one single-family dwelling on a lot of record, to permit 2 dwelling units on a tract of 9 acres in an RS-3 district -- SECTION 207 -- One Single-Family Dwelling Per Lot Of Record -- Use Unit 6, located: 8735 South 33rd Avenue West.

Presentation:

Mark Howell, 8735 South 33rd West Avenue, proposed to build a new home on the property. The existing house was built in the 1950's and moved to this property in the mid-1960's. He proposed to tear down the barn and build the new home on that site. He would live in the existing house while building the new one and tear down the old when construction of the new house is completed.

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 regulation limiting one single-family dwelling on a lot of record, to permit 2 dwelling units on a tract of 9 acres in an RS-3 district, on condition there be only one dwelling on the property three years from now, on the following described property:

N297 S495 NW SW SEC 15 18 12

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Case No. 19903

Action Requested:

Variance of required front yard abutting a public street from 35 ft to 25 ft to permit a new dwelling. SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS, located: 4020 East 76th Street South.

Presentation:

Mr. Beach asked the applicant if the plan was for a triplex dwelling.

Robert Johnson, 212 North Main, replied that the plans are only for one single-family dwelling. He added that the previous plan he prepared for the owner was approved for a 25' front yard setback but the time has expired. The plan is for a larger house though similar to the previous one and they again asked for a 25' front yard setback. A site plan was provided (Exhibit D-1).

Comments and Questions:

Ms. Turnbo asked if there is only one kitchen for the whole house. Mr. Johnson replied that it is for a single-family dwelling, with only one kitchen. Mr. Boulden wanted to be sure the applicant understood this cannot be for a multiple-family dwelling. Mr. White read a letter of opposition from interested parties (Exhibit D-2).

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 required front yard abutting a public street from 35 ft to 25 ft to permit a new dwelling, finding the hardship to be the configuration of the lot and the topography, on the following described property:

PRT LT 16 BEG 280.01E NWC TH E366.18 S5.81 SLY 325 .03 NWLY 239.50
POB BLK 3, SILVER OAKS B6-14, TIMBERCREST ADDN

Case No. 19904

Action Requested:

Approval of amended site plan for addition to church SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5, located: 5511 South Harvard Avenue East.

Presentation:

Mr. Dunham asked if they would be able to meet the parking requirements. Mr. Bugg replied they have had the architect look at it and they will be in compliance.

John Bugg, 7707 South Gary Place, presented the amended site plan for education space. The sanctuary would not be changed.

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 an amended site plan for addition to church, on the following described property:

PRT SW NW BEG 230N SWC NW TH N506 E80 NELY252.03 S E504.36
SW71.74 W367 POB LESS W50 THEREOF FOR ST S EC 33 19 13 3.92ACS

Case No. 19906

Action Requested:

Variance of required 5 ft setback from the side yard to 1 ft for existing structure. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 2510 East Archer Street North.

Presentation:

Coyle Bitson, 2226 East 32nd Street North, introduced the applicant, **Jose Sosa**, 2508 East Archer, and his daughter, Judy Sosa.

Judy Sosa, 2508 East Archer Street, stated she came to speak for her father. Ms. Bitson submitted an exhibit with photographs (Exhibit F-2) to show what the applicant is doing. Mr. Sosa bought the house next door to his and obtained a building permit to remodel. The carport was repaired and enclosed because his

tools and supplies were being stolen. He needed relief for the encroachment. A site plan was provided (Exhibit F-1).

Comments and Questions:

Mr. Dunham asked when the carport was built. Ms. Bitson replied that the carport existed when he purchased the property. She explained that Mr. Sosa enclosed the carport in the last six months. Mr. White asked if Mr. Sosa was going to retain ownership of the house at 2508. Ms. Bitson responded he would retain ownership. Mr. Boulden stated that the definition of a carport is any space or space having a roof but not enclosed by walls and accessory to a dwelling or dwellings. Mr. White responded that it is now fully enclosed. Mr. White questioned what the hardship would be.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-1-0 (White, Dunham, Stephens, Paddock "aye"; Turnbo "nay"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of required 5 ft setback from the side yard to 1 ft for existing structure, per plan, finding this is an expansion of a non-conforming structure and encroaches no further on the side lot line than the structure did as it was originally built; finding the neighboring property is under the same ownership; and 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 10 BLK 2, FAIRMONT ADDN

Case No. 19907

Action Requested:

Special Exception to allow accessory parking for church use on Lots 17&18, Block 42, West Tulsa Addition and Lot 6, Westdale Addition; a Variance of the required setback from West 23rd Place from 40' to 33'; a Variance of the required setback from Maybelle Ave. from 50' to 40'; and a Variance of required setback from rear property line from 25' to 22', located: 922 West 23rd Place South.

Presentation:

Bill Schneider, 5512 East 9th Street, stated he is the architect for the church activity center. The site plan addition was prepared and submitted for a building permit. They were advised they would need to meet the residential setback requirements or obtain relief from the Board of Adjustment.

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 setback from centerline of S. Lewis from 100 ft to 98.8 ft. and a **Variance** of 10 ft setback from an R zoned district for a non-conforming building, per plan, finding this is an existing building, action is to clear the title, on the following described property:

LT 1 LESS BEG SWC TH N25 SE35.45 W25 POB FOR ST, BLK 1, SOUTH LEWIS EXPRESS STORAGE

Case No. 19911

Action Requested:

Variance of setback from centerline of East 15th Street from 100 ft to 90 ft. SECTION 901. BULK AND AREA REQUIREMENTS IN INDUSTRIAL DISTRICTS, located: 1434 South Sheridan Avenue East.

Presentation:

John Moody, 1800 South Baltimore, stated this portion of 15th Street is designated a secondary arterial street, which requires 100' of right-of-way. He pointed out that 100' of right-of-way has not been acquired or dedicated on these properties along 15th Street between Yale and Sheridan. There is forty feet of right-of-way, and it is set back fifty feet from the property line, which would be the setback, though it is supposed to be measured from the centerline. This is a variance of ten feet. Mr. Moody stated the lender has required the correction for the title.

Comments and Questions:

Mr. White noted that the buildings on the east and west side of the subject property are closer to the property line than on this site.

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 setback from centerline of East 15th Street from 100 ft to 90 ft., finding this is an existing building and there are numerous structures closer to the street, on the following described property:

PRT SE NE BEG 40N & 232.75W SECR SE NE TH W165 N26 2.75 W99.77
N193.25 E462.52 S288 W197.75 S168 POB SEC 10 19 13 3.38ACS

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Case No. 19912

Action Requested:

Variance of parking requirement for mini-storage from 14 spaces to 11 spaces and variance of 10 ft setback from R district to 8.4 ft and variance of setback from centerline of S Peoria from 100 ft to 99.6 ft. SECTION 1216.D. USE UNIT 16. MINI-STORAGE; SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS, located 6436 South Peoria Avenue East.

Presentation:

John Moody, 1800 South Baltimore, stated this application is to correct an existing situation. There was a mini-storage built on the property in the 1980's, and an addition in 1991. There were eleven parking spaces and they were supposed to add two more but they did not. It has been through two more ownerships since that time. The frontage is the narrowest part of the property and with the two-lane controlled access gate there is not room to add more parking spaces. He pointed out the ten foot building that is eight feet from the residential district.

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 parking requirement for mini-storage from 14 spaces to 11 spaces; a **Variance** of 10 ft setback from R district to 8.4 ft.; and **Variance** of setback from centerline of S Peoria from 100 ft to 99.6 ft., per plan, finding this is an existing facility, to correct discrepancies when it was built, on the following described property:

N61 S150 N211 W5 LT 1 BLK 1 YOUNG CENTER & LT 1 BLK 1 STORAGE
ACRES

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Case No. 19913

Action Requested:

Variance of the required setback on the front from 30 ft to 25 ft. SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS, located: 2216 South Troost Avenue East.

Presentation:

James Boswell, 1305 East 15th Street, Suite 201, stated he is the architect for the project. He suggested this should be a Special Exception instead of a variance under Section 403.A.7.

Mr. White out at 2:47 p.m.

Mr. Boulden stated that a special exception is a lesser standard of relief and could be heard that way.

Mr. White returned at 2:49 p.m.

Mr. Boswell noted that in this area most of the lots have a platted 25' building line on the lot lines that abut the streets. The majority of the homes are built on the 25' line. The plans meet livability space requirements. A site plan was provided (Exhibit L-1).

Interested Parties:

Greg Jennings, 2260 South Troost, stated his support of the application.

Robert N. Jones, 2217 South Troost, stated he lives across the street from the subject property. He submitted a letter of opposition (Exhibit L-3). He noted that the neighborhood has a mixture of old and new, large and small houses. They purchased their home because of the aesthetic beauty of the neighborhood. He submitted photographs (Exhibit L-2) and pointed out the proximity of the homes. Mr. Jones indicated it appeared the trend is to get the most square footage allowed with a variance. He pointed out the narrow lot lines.

Comments and Questions:

Mr. Dunham commented there have been a number of variances approved in the neighborhood. He added this is a special exception and does not require a hardship.

Applicant's Rebuttal:

Mr. Boswell stated the previous house was torn down and it had a 25' setback. He pointed out the house to the north meets all of the livability space and they obtained relief of the front yard and rear yard setbacks. He stated that they meet all of the other setbacks on the subject property.

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** of the required setback on the front from 30 ft to 25 ft., per plan, finding the lot is a little more narrow than most of the lots in the neighborhood; and other lots in the neighborhood have been granted relief and the original setback was 25', on the following described property:

N.1/2 LT 10 ALL LT 11 BK 5, TERWILLEGER HGTS.

There being no further business, the meeting was adjourned at 3:02 p.m.

Date approved: SEPTEMBER 28, 2009



Chair