

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 898
Tuesday, October 26, 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**

Paddock

**STAFF
PRESENT**

Beach
Butler

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Friday, 22, 2004, at 11:00 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.

MINUTES

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Paddock "absent") to **APPROVE** the Minutes of October 12, 2004 (No. 897).

NEW APPLICATIONS

Case No. 19331

Action Requested:

Special Exception to permit Offices, Studios and Support Services in an RM-2 District subject to bulk and area requirements of the OM district and Special Exception Uses in Residential Districts Requirements --Section 402 and Section 404 -- Use Unit 11; Variance of requirements for frontage for each lot to be on a public street --Section 603 -- Use Unit 11; Variance to reduce the landscaped area from the perimeter driveways and parking areas from 5 feet in width to 2 feet in

width, subject to development standards --Section 1002.A.3, located: 4106 South Rockford Avenue East.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, stated the previous development began with plans for 37 townhouses on twenty foot wide lots with common party walls. The driveways and alleyways with curbs on the east and west sides were constructed before the project was stopped. He submitted photographs of the property (Exhibit A-1). He stated the application requests were for office use. He indicated the structures would be one story. They would also like to keep the existing curbs.

Interested Parties:

Beverly Southard, 4146 South Rockford Place, stated that her property abuts the subject property. She commented that she is not opposed to the application but wanted some assurance that the overgrown vegetation at her fence line would be cleaned up and maintained. She also asked if there would be trash bins and such in the rear yard.

Applicant's Rebuttal:

Mr. Norman responded that the code would require the applicant to put up a screening fence or wall between the subject property and residential property. The development standards would also require 15% of each lot to be landscaped. He stated there would be a significant setback and be maintained by the owners' association.

Comments and Questions:

Ms. Turnbo asked if there would be adequate parking. Mr. Norman indicated this is a conceptual site plan and for this size facility there is adequate parking. The parking and building size would be adjusted to conform to the zoning code.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Paddock "absent") to **APPROVE** a **Special Exception** to permit Offices, Studios and Support Services in an RM-2 District subject to bulk and area requirements of the OM district; a **Special Exception** Uses in Residential Districts Requirements; a **Variance** of requirements for frontage for each lot to be on a public street; and a **Variance** to reduce the landscaped area from the perimeter driveways and parking areas from 5 feet in width to 2 feet in width, subject to development standards, finding this would be less intrusive and less density in the neighborhood than the previously planned townhouse development, on the following described property:

LT 1 BLK 1, DON-LEE ADDN, AND BLK 1 & E25 VAC ROCKFORD AVE BTW SL E 41 ST & NL E 42 ST, BLK 2 & W25 VAC ROCKFORD AVE BTW SL E 41 ST & NL E 42 ST, FORTY FIRST ADDN

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:

Jim Lieber, P.O. Box 700450, Tulsa, stated this is a joint request of the applicant and the property owner for a continuance.

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"; Paddock "absent") to **CONTINUE** Case No. 19874 to the meeting on November 23, 2004.

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

Case No. 19925

Action Requested:

Special exception to permit a 70 ft telecommunications tower to be constructed less the allowable 110% of the height of the tower to 13 ft from an O zoned district. SECTION 1204.C.3.g(1) USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES; Use Conditions, located: 5320 South Harvard Avenue East.

Presentation:

Mr. Beach stated a protest group made a timely request for continuance for 30 days.

Steve Schuller, 100 West 5th Street, Suite 500, stated he represented Dr. Tom Kirkpatrick with the Kirkpatrick Orthodontists. They own the property adjacent to the subject property to the south. He also represented Ken Tumin and John Hausam, residents of Harbor Park Village to the north of the subject property; and for the South Creekside Neighborhood Association and some of the residents to the south of the property. They requested a continuance in writing for time to study the applicant's request.

Kevin Coutant, 320 South Boston, Suite 500, informed the Board that the preparations for this application began in June 2004. They conferred with INCOG staff and a City Zoning Clearance Officer at that time. They concluded after deliberation that a special exception was not required. When they applied for the building permit the previous decision was reconsidered and they were advised by the City Attorney to apply for the special exception. They filed and were scheduled to be heard two weeks ago by this Board. There was a mistake in the noticing for the case and so they were continued to this date. He stated they were fully prepared to be heard and the interested parties appeared to be adequately represented. He added that time had become a critical issue and this was a simple application without complexities.

Comments and Questions:

Mr. Boulden commented he was aware of the history of this application. He suggested that the interested party's questions might be answered if Mr. Coutant presented his case at this time. Mr. White offered to move the case down on the agenda to give the parties time to discuss the issues outside of the room. Mr. Schuller did not agree that all interested parties were represented. He stressed that they needed more time to consult with some experts and present their issues appropriately. Mr. Coutant responded to the Board they have not tried to rush this process as they followed the law and notices were made as required by statute and the ordinances. Ms. Turnbo suggested a two-week continuance instead of thirty days. Mr. Coutant and Mr. Schuller agreed to two weeks.

Board Action:

On **Motion** of Turnbo, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens, "aye"; no "nays"; no "abstentions"; Paddock "absent") to **CONTINUE** Case No. 19925 to the meeting on November 9, 2004, regarding the following described property:

BG 140S NEC SE NE TH W260 S126 E150 NE112.87 N101. 69 TO BG LESS E50 FOR ST SEC 32 19 13 .60AC

*.***.***.***.***.

Case No. 19929

Action Requested:

Special Exception to permit off-street parking in an RM-2 District -- Section 401-- Use Unit 10; Variance of required 10' foot rear building setback to 5 feet to permit a parking garage in an RM-2 district -- Section 403.A. -- Use Unit 10, located: 252 West 15th Street South.

Presentation:

Mr. Beach informed the Board that staff received a request for continuance from a neighborhood group the day before the meeting. Mr. White asked the applicant if he had heard from the protestors. Mr. Hjelm replied that he heard from them on the day of the meeting.

Mr. Hjelm, the applicant, stated he objected to a continuance, and would like to get his structure built before the bad weather. He has met with one neighbor the Friday before the meeting and he did not suggest a continuance at that time. Mr. White suggested the applicant and interested parties meet outside the room to discuss the issues and they would call the case in the order of the agenda.

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NEW APPLICATIONS

Case No. 19927

Action Requested:

Minor variance of required rear yard setback from 25 ft. to 23 ft.-10 in. SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS, located: 3030 South Wheeling Avenue East.

Presentation:

Laurence Pinkerton, 3030 South Wheeling Avenue East, submitted a packet of exhibits (Exhibit B-1). He stated the fence has existed for thirty to forty years. He and the neighbors considered the possibility that if it were the true border there might not be a need for relief.

Mr. White stated he would be abstaining from Case No. 19927.

Interested Parties:

Carol Ashcraft, 1754 E. 30th Street, stated she had no objection. She has obtained a survey. The only problem she could see was an existing sewer line that would have to be addressed.

Board Action:

On Motion of Turnbo, the Board voted 3-0-1 (Dunham, Turnbo, Stephens "aye"; no "nays"; White "abstained"; Paddock "absent") to **APPROVE** a **Minor variance** of required rear yard setback from 25 ft. to 23 ft.-10 in., finding the lay of the land and existing fence as the hardship, on the following described property:

BEG 17.81 SW NEC LT 17 TH SWLY 97.78 TH SELY TO PT ON SL LT 16 TH NELY 130 TO PT 10 S SECR LT 17 TH NW POB BLK 17, FOREST HILLS

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Case No. 19928

Action Requested:

Variance of required side yard from 15 ft to 5.75 ft to permit a detached accessory building. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located: 2128 East 26th Street South.

Presentation:

Kerry Miller, 3511 South Birmingham, stated he represented Helen Stobb, and Sharon Boskell. The rear yard is in the floodway of Crow Creek. The original 25-year old, wood gazebo was removed to be replaced with a new masonry gazebo. A site plan was provided (Exhibit C-1).

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"; Paddock "absent") to **APPROVE** a **Variance** of required side yard from 15 ft to 5.75 ft to permit a detached accessory building, per plan, finding most of the rear yard is floodway with very limited room to construct the gazebo and the original existed for 25 years, on the following described property:

PRT LT 8 BEG NWC THEREOF TH E10 SLY TO PT 10E SWC LT 8 W10 NLY
190.95 POB & ALL LT 9 BLK 2, FOREST HILLS

Case No. 19929

Action Requested:

Special Exception to permit off-street parking in an RM-2 District -- Section 401-- Use Unit 10; Variance of required 10' foot rear building setback to 5 feet to permit a parking garage in an RM-2 district -- Section 403.A. -- Use Unit 10, located: 252 West 15th Street South.

Presentation:

C.R. Hjelm, stated that after discussion with the interested party they were in agreement to request a continuance to November 9, 2004. A letter requesting continuance was provided (Exhibit D-1).

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Paddock "absent") to **CONTINUE** Case No. 19929 to the meeting on November 9, 2004, regarding the following described property:

LT 9 AND LT 10, BLK 3, STONEBRAKER HGTS ADDN

Case No. 19930

Action Requested:

Special Exception to permit required parking for a nightclub to be on a lot other than the lot containing the use -- Section 1303.D -- Use Unit 12a, 5925 East 11th Street South.

Presentation:

Lou Reynolds, 2727 East 21st Street, Suite 200, stated the lot with the use has a 6,000 square foot building and seventeen parking spaces. The adjacent lot to the east has no uses, no building and fifty-six parking spaces. He informed the Board that 844 square feet of the building are used as a beer bar/night club and the remaining square feet are vacant, previously used for office. The night club needs 65 parking spaces to comply with the zoning code. If the rest of the building was in use as office another four parking spaces would be required and retail would require six more spaces. To the north is an open field. They have talked with the adjacent neighbors, whom they found supportive.

Interested Parties:

Randy Chevrier, 5950 East 11th Street, stated his business is to the south of the subject property. He asked have the parking spaces been in use already. He has observed the vacant parking lot and his own lot being used for the night club.

Comments and Questions:

Mr. Dunham asked if the applicant would agree to a tie agreement, to which he did agree. Mr. Stephens asked if both lots were under the same landlord and for the hours of operation.

Applicant's Rebuttal:

Mr. Reynolds stated the business was run more as a weekend club, Thursday, Friday, Saturday and Sunday evenings from 8:00 p.m. to 2:00 a.m. The bar was recently expanded and this application was triggered by a building permit application. He indicated it was a non-conforming use. Mr. Boulden asked how it was non-conforming. Mr. Reynolds replied that it was because there were not enough parking spaces on the lot to support the bar. He added that it was expanded by about 1,000 square feet. Mr. Boulden questioned if they have a non-conforming status since they expanded the bar. He and Mr. Reynolds agreed they needed more time to look into this issue.

Board Action:

On **Motion** of **Stephens**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Paddock "absent") to **CONTINUE** Case No. 19930 to the meeting on November 9, 2004, regarding the following described property:

PRT E/2 LT 2 & PRT LT 1 BEG 15N & 125W SECR LT 1 TH W100.6 N191.58 SE99.40 S183.2 POB BLK 64, GLENHAVEN AMD AND S200 OF THE W1/2 OF

LT 2 BLK 64, N330 NE NW NE LESS E150 & LESS TR BEG 636.57W & 330S
NEC NW NE TH N150 E317.65 S150 W317.65 POB & LESS N24.75 THEREOF
FOR ST SEC 10 19 13 2.48ACS

Case No. 19932

Action Requested:

Special exception to allow Use Unit 19 - Hotel/Motel in an IL zoned district, 3415 South Sheridan Road East.

Presentation:

Ted Sack, stated he represented Robert Scharoun. The tract of land is vacant and located at the southeast corner of South Sheridan Road and the Broken Arrow Expressway. The land to the east is floodplain and the new Riverside Toyota lot. To the north is the expressway and to the west is another dealership. On the south is an existing sub-station. A conceptual site plan was provided (Exhibit E-1).

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"; Paddock "absent") to **APPROVE** a **Special Exception** to allow Use Unit 19 - Hotel/Motel in an IL zoned district, per conceptual site plan, on the following described property:

BEG 222 E SWC SW NW TH NW TO PT 50 E WL SW NW TH N TO PT APPR
959.95 S NL SW NW TH NE 127.48 TO PT 75 E NWC SW N W TH E 342.4 NE
293.29 NELY & SELY CRV RT 432.22 SE 142.24 SELY & SWLYCRV RT 1313.6
SW 159.74 TO SL NW TH W POB LESS BEG 936.07 E SWC NW TH E 236 NE
159.41CRV LF 67.20 CRV RT 38 N 35.67 W 16.25 N 115 W 375 S 336.13 SEC
23 19 13 37.371ACS

Case No. 19933

Action Requested:

Variance of the required setback from a non-arterial street for a garage from 20 ft to 10 ft SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located: 1941 East 34th Street South.

Presentation:

Glenn Mirando, 1941 East 34th Street South, proposed to add a garage and convert the existing garage to a family-room.

Comments and Questions:

Mr. Dunham asked if this would meet the code. Mr. Beach explained the intent of the code for garages to be set back 20' is to allow parking on the driveway without being on another property, which is the public right-of-way in this case. He suggested alternatives to the location of the driveway. Mr. Mirando responded that they were trying to avoid uprooting trees and a garden area. He pointed out that Xanthus was in a circular area with low traffic volume. He compared the area to the Swan Lake neighborhood.

Karen Mirando, of the same address, described the structure having a lot of glass and they were going to add to it for the beautiful view and blend the look. She felt sure the neighbors would not be in support of the driveway being moved to access Xanthus. The plans include a cut-away area for parking for guests. There is an existing privacy fence to the north.

Interested Parties:

One letter of opposition was received (Exhibit F-1). 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"; Paddock "absent") to **APPROVE** a **Variance** of the required setback from a non-arterial street for a garage from 20 ft. to 10 ft., finding the mature trees, a short street and the low volume of traffic, with conditions: for a parking off-set to the north for the length of a car; that the screening fence on the common property lines remain, on the following described property:

LT 6 BLK 4, ADAMS ESTATES

Case No. 19934

Action Requested:

Variance of required side yard from 5 ft to 1 ft to permit a new attached carport. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located: 1241 Pittsburg Avenue East.

Presentation:

James Ellisor, 1241 South Pittsburg, proposed to build his carport as wide as possible for better parking. He stated it would be wider than the garage under construction. The driveway would be widened also. A site plan was provided (Exhibit G-1).

Comments and Questions:

Mr. White asked about the neighbor to the north. Mr. Ellisor replied there is an existing privacy fence between them. He had not spoken to them about the

Applicant's Rebuttal:

Mr. Powers understood that the existing house is encroaching by zoning standards. He indicated the current owners would be willing to consider some terracing of the property. He informed the Board that he has a permit for a cabana.

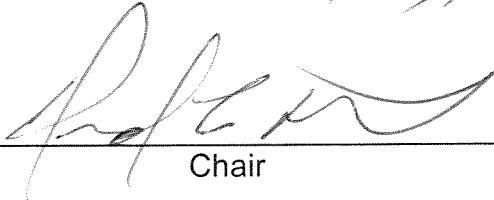
Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Paddock "absent") to **APPROVE** a **Variance** of required side setback from 15 ft to 6 ft for an addition to the dwelling, per plan, finding this is just a short extension of the existing encroachment and the shape of the lot makes the encroachment of six feet necessary as it narrows toward to the back; 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:

PRT LT 7 BEG 171.10NW SECR TH NW138.02 NELY115.22 N125 TH ON CRV LF 150.92 TH ON CRV RT 245.50 POB BLK 6, BOLEWOOD ACRES

There being no further business, the meeting was adjourned at 2:39 p.m.

Date approved: NOVEMBER 9, 2007



Chair