

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

**MEMBERS  
PRESENT**

Dunham, Vice Chair  
Stephens  
Turnbo  
White, Chair

**MEMBERS  
ABSENT**

Perkins

**STAFF  
PRESENT**

Beach  
Butler  
Alberty

**OTHERS  
PRESENT**

Boulden, Legal

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

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

\*\*\*\*\*

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

\*\*\*\*\*

**REQUEST TO CONTINUE AND CASES TO WITHDRAW**

**Case No. 19749**

**Action Requested:**

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

**Presentation:**

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

**Board Action:**

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

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

\* \* \* \* \*

**Case No. 19755**

**Action Requested:**

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

**Presentation:**

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

**Board Action:**

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

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

\* \* \* \* \*

**Case No. 19757**

**Action Requested:**

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

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

**Presentation:**

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

**Board Action:**

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

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

\* \* \* \* \*

**MINUTES**

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

\* \* \* \* \*

**UNFINISHED BUSINESS**

**Case No. 19736**

**Action Requested:**

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

**Presentation:**

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

parking spaces in all. He stated that 55 adjoining businesses signed a petition in support of this application.

**Comments and Questions:**

Mr. Dunham questioned the number of parking spaces behind the restaurant. Mr. Harrell showed the proposed plan that identifies 14 parking spaces.

**Interested Parties:**

**Jim Pinkerton**, 1722 S. Boston, questioned there could be nine to ten parking spaces on Tract B. He indicated there is no turn around room in the 60' x 60' space behind the building; and cars would have to back out all the way to 33<sup>rd</sup> St. He suggested several other locations to the applicant but they were not interested in them. He indicated that the applicant admitted they knew they did not have enough parking when they leased the space. He referred to a letter of opposition from the laundromat (see Exhibit A-5).

**Nancy Apgar**, 3914 S. Norfolk, stated she is a member of the Board of the Brookside Neighborhood Association. She informed the Board that they decided to take no action regarding this application.

**Applicant's Rebuttal:**

Mr. Harrell stated he believes this would be a popular business in this area. He added that the majority of people he talked with in the area were in support of this case. This is the type of problem that businesses face on Cherry St. but people know the situation. They like these areas and they are thriving.

Board discussion ensued.

Mr. Alberty pointed out the eight on-street parking spaces in front of the buildings on the subject property. They cannot be counted as part of the required parking but they are available. He also mentioned that these businesses are frequented by people living in the Brookside neighborhood, and many of them walk to these locations.

**Board Action:**

On **Motion of Dunham**, the Board voted 3-1-0 (White, Dunham, Stephens "aye"; Turnbo "nay"; no "abstentions"; Perkins "absent") to **APPROVE** a **Variance** of the required parking spaces for restaurant from 30 to 15 spaces with conditions for a limited time period to November 30, 2006 while parking is available with Mecca Coffee Company, and on Tract B behind the subject space; and days/hours of operation Tuesday through Saturday, 5:00 p.m. to 10:00 p.m., on the following described property:

W 150.00' of Lot 9, Block 1, Peebles Addition, City of Tulsa, Tulsa County, State of Oklahoma.

\*\*\*\*\*

## **NEW APPLICATIONS**

### **Case No. 19754**

#### **Action Requested:**

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

#### **Presentation:**

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

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

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

#### **Interested Parties:**

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

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

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

#### **Board Action:**

On **Motion of Turnbo**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** Case No.



**Board Action:**

On **Motion of Dunham**, the Board voted 4-0-0 (White Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a ***Special Exception*** to allow required off-street parking on lot other than the lot containing the business; and a ***Variance*** to reduce required off-street parking spaces from 20 to 10 for restaurant use in non-conforming CH zoned lot with parking easement from adjoining church parking lot, with conditions: building B-1 include a restaurant of no more than 2,000 sq. ft., and balance of building be for retail use; and building B-2 be used for a coffee shop, per plan, 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:

A tract of land that is part of Lot 56 of "Burgess Acres Addition", said tract of land being more particularly described as follows, to-wit: Starting at the NE/c of said Lot 56; thence due W along the Nly line of Lot 56 for 18.72' to the POB of said tract of land; thence S 00°00'20" E and parallel with the Ely line of Lot 56 for 70.00' to a point on the Sly line of Lot 56; thence due W along said Sly line for 131.73'; thence N 00°00'20" W and parallel with the Wly line of Lot 56 for 70.00' to a point on the Nly line of Lot 56; thence due E along said Nly line for 131.73' to the POB of said tract of land. And A tract of land that is part of Lot 6, Block 2 of "amended Plat of Peoria Gardens Addition", said tract of land being more particularly described as follows, to-wit: Starting at the NE/c of said Lot 6; thence due W along the Nly line of Lot 6, for 9.02'; thence S 00°00'20" E and parallel with the Ely line of Lot 6 for 10.00' to the POB of said tract of land; thence continuing S 00°00'20" E for 40.00'; thence due W and parallel with the Nly line of Lot 6 for 66.50'; thence due N for 40.00'; thence due E and parallel with said Nly line for 66.50' to the POB of said tract of land. And a tract of land that is part of Lots 5 and 6, Block 2, "Amended Plat to Peoria Gardens Addition" said tract being more particularly described as follows, to-wit: Starting at the NE/c of said Lot 5; thence due W along the Nly line of Lot 5 for 18.72' to the POB of said tract of land; thence S 00°00'20" E and parallel with the Ely line of Lot 5 for 45.00'; thence due W for 20.00'; thence due S for 40.50'; thence due E for 20.00'; thence S 00°00'20" E for 24.50'; thence due W for 56.78'; thence due S for 16.00'; thence due W for 27.50'; thence due N for 15.00'; thence due W for 21.50'; thence due S for 54.00'; thence due W and parallel with the Sly line of Lot 6 for 110.50' to a point on the Wly line of Lot 6; thence N 00°00'20" W along the Wly line of Lot 6 and Lot 5 for 159.00'; thence due E for 62.00'; thence due N for 6.00' to a point on the Nly line of Lot 5; thence due E along said Nly line for 154.28' to the POB of said tract of land, all three tracts being Additions to the City of Tulsa, Tulsa County, State of Oklahoma.

\*.\*\*\*\*\*.

**Case No. 19758**

**Action Requested:**

Variance of side yard from required 5' to 3' in a RS-3 district. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located: 1569 Swan Drive.

**Mr. White abstained from Case No. 19758.**

**Ms. Turnbo out at 2:41 p.m.**

**Presentation:**

**John Walton**, 1546 Swan Dr., stated he is the architect for the applicants, Tom and Caroline Benediktson. They purchased the house, which had been gutted and left vacant for three years. The one-car garage has severe termite and structural damage. They propose to demolish the existing structure and replace it with a larger garage to within five feet of the west property line. A site plan and elevation were provided (Exhibits C-1 and C-2).

**Ms. Turnbo returned at 2:43 p.m.**

They have shared the plans with the neighbors and found them to be supportive. They have obtained a Certificate of Appropriateness. They discovered the plat was incorrect, and they had the property re-surveyed.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **Motion** of **Turnbo**, the Board voted 3-0-1 (Dunham, Turnbo, Stephens "aye"; no "nays"; White "abstained"; Perkins "absent") to **APPROVE** a **Variance** of side yard from required 5' to 3' in a RS-3 district, per plan, finding the shape of the lot and it is in keeping with the Tulsa Preservation Commission in a historic district, on the following described property:

Lot 9, Block 1, except the E 10.00' thereof, Swan Park, a subdivision of land, City of Tulsa, Tulsa County, State of Oklahoma.

\*.\*\*\*\*\*.

**Case No. 19759**

**Action Requested:**

Variance of the required 20' rear yard to 15' for a new dwelling, located: 1420 East 55<sup>th</sup> Place.

**Presentation:**





