

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 882  
Tuesday, February 24, 2004, 1:00 p.m.  
Francis F. Campbell City Council Room  
Plaza Level of City Hall  
Tulsa Civic Center

**MEMBERS  
PRESENT**

White, Chair  
Dunham, Vice Chair  
Turnbo  
Perkins  
Stephens

**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 Friday, February 20, 2004, at 9:57 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.

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

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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 February 10, 2004 (No. 881).

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**UNFINISHED BUSINESS**

**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 15'. 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



**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. White asked the interested parties present to sign in for a record of their opposition (Exhibit B-2).

Mr. Beach informed the Board of the portion of the property that actually applies to the application. He added they could exclude the westerly portion of the property.

**Bob Stewart**, 1218 West Archer, stated he is the President of the Tulsa Automatic Music Company. He stated it is zoned IM but if it were zoned commercially as much of the surrounding property it would meet all of the code requirements. They propose to clean up the property. The property is only accessible from Sheridan Rd. It is bordered on the south by the railroad track; and on the east by a manufacturing business. There is no abutting residential property.

**Comments and Questions:**

Ms. Perkins asked about activities, services, and alcoholic beverages they plan to serve. Mr. Stewart replied this is not a request for a sexually-oriented business. They do not plan to have entertainment dancers. He stated it will be a nightclub, serving beer and mixed drinks. He provides the building, pool tables, juke boxes, and then leases to someone who would obtain the liquor license, and set up the bar. In response to questions from the Board, he stated it is about 4,000 sq. ft.; there may be some customer dancing; and would operate typically Thursday through Sunday, from 5:00 p.m. until 2:00 p.m. He did not want to limit the lessee to the days and hours. Ms. Perkins explained that this is probably a concern of the interested parties and the Board can stipulate days and hours of operation. He stated he would want the maximum days and hours of operation allowed by the state statutes. He stated no outside speakers or seating is planned. Mr. Boulden asked if he would agree to no live music inside the business if the Board made it a condition. He replied he would rather not have that restriction. Mr. Boulden asked if there are doors or windows to the southwest of the property to which Mr. Stewart replied there are not.

**Interested Parties:**

**Larry Abboud**, 19301 Wekiwa Rd., Sand Springs, Oklahoma, stated it has been vacant for four years. He described the filthy conditions caused by numerous birds on the property. He explained the property has been shown to many prospective buyers. The applicant is willing to spend what it takes to prevent this property from going into further deterioration.

**Synna Patrick**, 1910 N. Joplin, stated she is head of the Dawson Neighborhood Association. The association members met with Mr. Stewart. They could not find out very much about the business since he will not be the operator. They are concerned for the safety of school children that walk past this property from the bus stop on Sheridan. She submitted petitions of opposition with 236 names (Exhibit B-1). She reminded the Board of the multiple bars that used to be located in the area. Ms. Patrick stated they have cleaned up the area and do not have any bars now. They choose to keep the neighborhood a business and family oriented area. They are very opposed to this application.

**David Huddleston**, 1932 N. Oxford Ave., stated he represented the owners of the closest six houses to the property as they could not attend this meeting. He submitted a petition (see Exhibit B-1) with their signatures. They have experienced a progression of improvement in the neighborhood. He felt that the absence of stop signs on Tecumseh near the property and the possibility of drivers leaving the bar under the influence of alcohol are a dangerous combination. He added that it is not compatible with a family neighborhood environment. Mr. Huddleston was concerned it would discourage new home buyers from moving into the neighborhood and cause the same problems they used to have.

**Anthony Perault**, 4369 S. Yale, stated he represented Angela Marble, the owner of the Sheridan Square shopping center, 1700 N. Sheridan. She is opposed to the application and thinks it would depreciate the value of her property.

**Reg Wallace**, 1925 N. Sheridan, stated he is the President of Crane Carrier Company. Their company is across Sheridan to the east. They run three shifts and they are concerned for the employees that walk to lunch. The railroad crossing is elevated and adds to the safety concerns.

**Joe Lynch**, 1621 N. Sheridan Rd., stated he is the Pastor of the Sheridan Avenue United Methodist Church. He and his congregation are opposed to the application. The church has been established there for fifty-six years. They are developing a relationship with Hamilton Middle School. He added that the bar would not be appropriate for that location.

**Robert Utley**, 6007 E. Tecumseh, stated he owns an auto repair shop on Tecumseh and a home on Norwood. He informed the Board there used to be a bar across the street from his shop. Mr. Utley listed vandalism, drag racing and other nuisances that he related with the presence of the bar. He opposed the application, which may bring a repeat of those problems.

**Councilor David Patrick**, City Council District 3, stated the neighborhood association, business leaders, and the City of Tulsa Urban Development Department have formulated a Master Plan for Dawson. Many improvements have been made in this area with private and public money. They have created a balance with commercial and industrial daytime activities. He pointed out the bar

would increase the night time activities. He stated It is not compatible with existing businesses; or appropriate with residential and church uses; and is not compatible with the Dawson Master Plan. They asked for denial of the application. They do not want to retreat to the trend of the 1950's and '60's when this area had a bad reputation and was not a nice place to live.

**Applicant's Rebuttal:**

Mr. Stewart responded that the parking lot is fenced without access to Tecumseh.

**Mr. Dunham abstained from Case No. 19755.**

**Board Action:**

On **Motion of Perkins**, the Board voted 4-0-1 (White, Turnbo, Perkins, Stephens "aye"; no "nays"; Dunham "abstained"; no "absences") to **DENY** a **Special Exception** to allow a bar/night club in an IM zoned district, finding it would not be in harmony with the spirit and intent of the Code, and would be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

A portion of NE1/4, SE1/4, Section 27, T 20 N, R13 E; BEGINNING at a point 827 feet South of the Northeast corner of the SE1/4 of said section; THENCE West a distance of 224.5 feet to a point; THENCE South 30 feet to the Northeast Corner of Lot 1, Block 6, HOUSTON ADDITION to the City of Dawson, now an Addition to the City of Tulsa; THENCE continuing South a distance of 260.4 feet to a point 80 feet south of the Southeast corner of Lot 5, Block 6, HOUSTON ADDITION to the City of Dawson, now an Addition to the City of Tulsa; THENCE Northeasterly to a point on the East line of said Section, 246 feet South of the Point of Beginning. THENCE North 246 feet to the POINT AND PLACE OF BEGINNING, LESS AND EXCEPT the East 30 feet thereof.

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**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; and a Variance of the required spacing of 300' from another adult entertainment establishment. SECTION 1212a.C.3.b. USE UNIT 12a. ADULT ENTERTAINMENT ESTABLISHMENTS, located: 800 North Peoria.

**Presentation:**

**Louis Moore**, 3631 E. 36<sup>th</sup> St. N., stated the purpose for purchasing the property was for their card club to have a place to play cards. He explained this is a private

card club for members only. Though it falls under the code for an adult entertainment establishment, it is not for a sexually oriented business. They planned to serve alcoholic beverages to members only. They plan to have fund raisers possibly as often as once per month. There would be no liquor or music outside. The days and hours of operation would be Wednesday through Thursday, 5:00 p.m. to 12:00 p.m. and Friday and Saturday, 12:00 p.m. to 2:00 a.m. They have a membership of twelve presently but would like to increase it to fifty or sixty members.

**Comments and Questions:**

Mr. Boulden read the zoning code regarding private clubs and asked Mr. Moore if the club would fall within the code. Mr. Moore replied that it would. Mr. Boulden asked about age requirement of the members and if children would be allowed to attend fund raisers. Mr. Moore responded the minimum age is 30 years old.

**Interested Parties:**

**Tony Glifford**, 1027 N. Rockford, stated he is the President of the Crutchfield Neighborhood Association. There is a bar less than 300' away. He added there is a school crossing directly across from the property. There are churches within two blocks and houses across the alley. He stated it sounds just like a bar not a card club. The association is opposed to this application.

**Virginia Taylor**, 819 N. Owasso Ave., expressed opposition to the application. She questioned if it is not a bar why would they need a liquor license. She submitted a petition (see Exhibit B-1) of opposition. Mr. Boulden asked if she knew how far it is from the other bar. Ms. Taylor replied the address is 734 N. Peoria.

**Nancy Wilson**, 1143 E. Haskell Pl., stated she lives behind the existing bar and they have witnessed numerous offensive things on that property. She opposed another bar.

**Teresa Gill**, 1216 E. Independence, stated she also owns property at 1212 E. Independence. She expressed concern for her granddaughter and other children that cross the parking lot and walk passed the front door of this building. She informed the Board that when it was an office supply store customers coming from Peoria would use her driveway to turn around and then park on the street. She does not want a recurrence of the same.

**Bill Lay**, 1118 E. Independence, stated that the label of adult entertainment highly suggests that it is not appropriate for children and families. He asked for a denial of this case as he did not think it would bring any value to this neighborhood.

**Applicant's Rebuttal:**

Mr. Moore reminded the Board the property would be completely fenced with a screening fence. The hours of operation are after five or other than school hours.









from 31<sup>st</sup> St. and Memorial from 75' to 25'. 1221.D.1. CS DISTRICT USE CONDITIONS FOR BUSINESS SIGNS, located: 3106 South Memorial.

**Presentation:**

**Ben Aguirre**, 1204 SW 129<sup>th</sup>, Oklahoma City, Oklahoma, stated he is with the McDonald's Corporation.

**Ms. Turnbo out at 2:41p.m. and returned at 2:43 p.m.**

He submitted photographs (Exhibit H-2) to illustrate their requests. They were concerned about the visibility of their sign from I-44. He listed the topography, new vegetation, and new development. Mr. Aguirre stated they may not need the full 100' as requested. The existing sign at the front on the corner of the property would be made smaller with less square footage and be a more appropriate scale for the street frontage.

**Mr. Stevens out at 2:45 p.m. and returned at 2:47 p.m.**

The corner sign would be in the same location but with less encroachment.

Mr. Dunham suggested that the variance for setback would not be needed, after discussion about the size and height of the signs.

**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 sign height from permitted 50' to 80' in a CS district, finding the hardship to be that it would be more in compliance with the existing signs in the neighborhood and give more visibility from the elevated highway; and to **STRIKE** the **Variance** of setback from 31<sup>st</sup> St. and Memorial from 75' to 25', finding the relief is not needed, on the following described property:

A tract of land that is part of Lot 1 and Lot 3 of 'Interchange Center', an addition to the City of Tulsa, Tulsa County, State of Oklahoma, said tract of land being more particularly described as follows, to-wit: starting at the NE/c of said Lot 1 of 'Interchange Center'; thence S 00°01'30" E along the Ely line of said Lot 1 for 27.09' to the POB of said tract of land; thence continuing S 00°01'30" E along said Ely line for 139.78'; thence N 89°56'45" W and parallel with the Nly line of said Lot 1 for 210.00' to a point, said point being 10.00' Wly of the Wly line of said Lot 1; thence N 00°01'30" W and parallel with the Wly line of Lot 1 for 165.00'; thence S 89°55'15" E for 181.40'; thence S 00°04'45" W for 4.00'; thence S 89°53'30" E for 0.00' to a point of curve; thence Ely, SEly and Sly along a curve

to the right with a central angle of 72°46'27" and a radius of 30.00' for 38.10' to the POB of said tract of land.

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**Case No. 19767**

**Action Requested:**

Special Exception to allow "Other Trades and Services" Use Unit 15 for contractor services business. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 15, located: 1150 North Mingo.

**Presentation:**

**R.E. Bright**, 242 S. Lindley Dr., Claremore, Oklahoma, stated he owns two and one quarter acres south of the subject property, with a 14,000 square foot office and warehouse building. He did it basically to clean up the area. He thought it was CH when he purchased it. He noted the property to the south is CH, to the north is CS and on the west is CG. His plan is to build a 2,400 square foot office and warehouse for approximately five employees. They would specialize in insurance repair. A site plan was provided (Exhibit I-1).

**Comments and Questions:**

Mr. Dunham asked what kind of repair. Mr. Bright replied it would be insurance repair of building constructions, such as fire and water restoration. The days and hours of operation would be 8:00 a.m. to 5:00 p.m. Monday through Friday. Mr. Dunham asked about the structure. Mr. Bright explained that it is a steel building, 40' x 60', and on the plot plan all of the hard surface is existing and has been for a number of years. Ms. Perkins asked what type of equipment and materials would be stored. Mr. Bright replied they would store a couple of trucks and a pickup. Ms. Perkins asked if they would store anything outside. Mr. Bright replied that they would not as they have never needed to store anything outside.

**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 ***Special Exception*** to allow "Other Trades and Services" Use Unit 15 for contractor services business, on condition there be no outside storage of materials or merchandise; and be in substantial compliance with the plan that was submitted today, 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:

E 225.00' N 180.00' SE, SE, NE, Section 36, T-20-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma.



home. She informed them of the need to apply for a zoning clearance permit to expand the driveway to park in the rear yard. She gave Mr. Wright a copy of the Board of Adjustment minutes. It was Mr. Wright's obligation to give the property owners all of their options and then it was up to them to make a decision. She stated that she, Mr. Wright and Mr. Ackerman met with the home owners and discussed the options. Mr. Wright was aware that the neighborhood was adamantly opposed, but all he could consider is what is permissible under the zoning code. Ms. Parnell stated that she contacted Tom Herring on January 9<sup>th</sup> at 4:53 p.m. regarding the owner's construction plans and the application for a zoning clearance permit. She informed Mr. Herring that Mr. Wright was waiting on an interpretation from the legal department that this was in compliance with the zoning code before he issued the permit. Mr. Herring understood this. The permit was issued on January 16<sup>th</sup>. The property owners were permitted to consider their rear yard as the front yard and the front as the rear yard. Ms. Parnell contacted Ms. Diane Kugler also that the permit was released on January 16<sup>th</sup>. She mailed a letter to Mr. Scott that same day notifying him of the release of the permit.

**Wayne Alberty** stated that a strict reading of the language shows it refers to a front lot line, not the front yard, stating "the boundary of a lot, which abuts a public street". It goes on to say, "Where the lot abuts more than one street the owner may select the front lot line", for purposes of setback. Mr. Alberty interpreted it to mean that once the house is built that determined where the front lot line is. He agreed with Ms. Parnell that this ordinance was intended for corner lots.

Mr. White commented in order for the home owner to choose 41<sup>st</sup> Street to be the front lot line, they would need a variance of the required 30' frontage, because it is short of 30'.

**Dustin Wright**, 111 S. Greenwood, pointed out there is a 30' frontage on 41<sup>st</sup> Place.

**Mr. White out at 3:36 and returned at 3:38.**

**Board Action:**

On **Motion of Turnbo**, the Board voted 4-1-0 (White, Turnbo, Perkins, Stephens "aye"; Dunham "nay"; no "abstentions"; no "absences") to **STRIKE** a request for Appeal of issuance of a zoning clearance permit, finding the Board does not have jurisdiction as the Administrative Official was not served notice of the appeal within the time allowed by Section 1605 of the zoning code, as well as comparable state statutes, regarding Case No. 19768 on the following described property:

Lot 3, Block 9, Saddle Lane Addition, City of Tulsa, Tulsa County, State of Oklahoma.

**Mr. Stevens left at 3:46 p.m.**

For the record, Ms. Turnbo asked that staff look into the deficiency of the zoning code regarding this issue with the hope that it could be amended in the future.

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**Case No. 19769**

**Action Requested:**

Variance from Section 1212.D. Off-Street Parking and Loading Requirements to reduce the number of required parking spaces from 95 to 62 in a 14,620' mixed-use commercial center presently containing use unit 11, 12, 13, and 14 in order to permit a 1,636 sq. ft. coffee shop (Use Unit 12) and a 1,550 sq. ft. retail establishment (Use Unit 14), located: W. of NW/c E. 91<sup>st</sup> St. & S. Yale Ave.

**Presentation:**

**R. L. Reynolds**, 2727 E. 21<sup>st</sup> St., stated he represented the applicant. He informed the Board that one of the parking spaces was counted twice, so they only need a variance to 89 spaces instead of 95. He submitted a parking study (Exhibit K-2), which showed the maximum number of vehicles parked at the center at any one time over a 24-hour period, was 25. The parking peaked around 3:00 to 4:00 p.m. and 7:00 p.m. He indicated that if the two new tenants used all 27 spaces required by the code, that equals 52 spaces and they have 62 spaces available. They expect the coffee shop to generate morning use. They have a mutual access easement with the office buildings and a mutual cross parking easement. He provided letters regarding the easements (Exhibit K-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, Perkins, "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE a Variance** from Section 1212.D. Off-Street Parking and Loading Requirements to reduce the number of required parking spaces from 89 to 62 in a 14,620' mixed-use commercial center presently containing use unit 11, 12, 13, and 14 in order to permit a 1,636 sq. ft. coffee shop (Use Unit 12) and a 1,550 sq. ft. retail establishment (Use Unit 14), finding there are mutual access and cross parking agreements with the other tenants; and finding the parking study is justification for the variance, on the following described property:

Lot 2, Block 1, Southern Woods Park, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

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There being no further business, the meeting was adjourned at 3:52 p.m.

Date approved: \_\_\_\_\_

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Chair