

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 Beach informed the Board that the applicant has withdrawn this application.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

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### **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.

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### **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.

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**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 193<sup>rd</sup> 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







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

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**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

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**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 32<sup>nd</sup> 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

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**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 23<sup>rd</sup> Place South.

**Presentation:**

**Bill Schneider**, 5512 East 9<sup>th</sup> 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.











**Presentation:**

**James Boswell**, 1305 East 15<sup>th</sup> 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:

