

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 Beach informed the Board that the applicant has withdrawn this application.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

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

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 detail site plan to permit expansion of Country Club buildings and facilities, with one change, that the existing four indoor tennis courts be increase to five instead of six.

On **Amended 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 detail site plan to permit expansion of Country Club buildings and facilities, with one change, with increase of three enclosed courts to four, on the following described property:

A tract of land in Section 32, Township 19 North, Range 13 East, and Section 5, Township 18 North, Range 13 East, City of Tulsa, Tulsa County, State of Oklahoma, more particularly described as follows: BEGINNING at the southwest corner of Lot 3, Block 2; Southern Villas Addition, thence East 165.09'; thence south 330.18'; thence east 165.11'; thence south 815.5'; thence southeast 368.48'; thence east 295.42'; thence south 656'; thence west 955'; thence south 825'; thence west 827.98'; thence north 165.05'; thence west 1,817.73'; thence south 330.5'; thence west 1,444.5'; thence north 208.71'; thence west 168.71'; thence north 2,389.4'; to a point which is 25' south and 40' east of the northwest corner of Section 5, Township 18 North, Range 13 East; thence along the south boundary line of East 61st Street South to a point, said point being 329.4' north of the point of beginning; thence south 329.4' to the POINT OF BEGINNING.

Mr. Stevens out at 2:37 p.m.

Case No. 19910

Action Requested:

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, located: 8905 South Lewis Avenue East.

Presentation:

John Moody, 1800 South Baltimore, stated he represented Secure Care Storage out of Colorado. They purchased six mini-storage facilities from Storage USA. As part of the transaction as-built surveys were required. The surveys revealed some minor encroachments and other items. They made this request to correct an existing condition that caused a non-conforming property.

Comments and Questions:

Mr. Dunham asked if they were changing anything to which Mr. Moody replied that they are not changing anything.

Mr. Stevens returned at 2:39 p.m.

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

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

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:

