

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 889
Tuesday, June 8, 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
Perkins

**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 Monday, June 7, 2004, at 11:37a.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. 19804

Action Requested:

Variance of parking requirement for fine arts center and new field house. SECTION 1205.C. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES; OFF-STREET PARKING AND LOADING REQUIREMENTS; a Variance of building setback. SECTION 1201.C.2.c. USE UNIT 1. AREA-WIDE USES BY RIGHT; USE CONDITIONS; a Variance of height of building. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; a Variance of access road setback. SECTION 1201.C.2.d. USE UNIT 1. AREA-WIDE USES BY RIGHT; USE CONDITIONS; and a Special Exception to allow new bleachers at the football field. SECTION 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS, located: 2520 S. Yorktown.

Presentation:

Mr. Beach informed the Board this case was continued to this hearing, but they one more continuance to June 22, 2004 to advertise for more relief.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (White, Dunham, Perkins, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 19804 to the hearing on June 22, 2004.

SW/4 of the NE/4 of Section 18, T-19-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof.

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Case No. 19832

Action Requested:

Requests a special exception to allow duplexes (2) in a RS-3 zoned district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 7, located: 1575 S 79TH AV.

Presentation:

Mr. Beach informed the Board that the applicant had withdrawn this application.

Board Action:

No action was needed.

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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 May 25, 2004 (No. 888).

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UNFINISHED BUSINESS

Case No. 19823

Action Requested:

Special Exception to permit a bar in a CH district within 150' of an R zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 12a, located: 4142 S. Peoria.

Presentation:

Jeff Levinson, 35 E. 18th St., stated he represented the Brookside Bar, Inc., and all the proponents. The Brookside Bar, Inc. is the prospective tenant of the subject property. This is not a sexually oriented business, though it is a bar tavern,

classified as a Use Unit 12.a. He submitted photographs (Exhibit A-1). He pointed out the existing eight-foot screening wall. He added that the door to the building exceeds a 50' distance from the R district. This property is zoned CH, which allows for such things as a community center, restaurant, warehouse or a convenience store as use by right.

Comments and Questions:

Mr. White noted the staff comment regarding the location of the trash dumpster, that it be next to the building, away from the abutting residence and placed inside an 8' enclosure with a latched gate. Mr. Levinson replied that would not be a problem.

Ms. Turnbo asked the hours of the bar and retail businesses.

Pete Sandschaper, 233 S. Quebec, stated the hours of the bar would be 12:00 p.m. to 2:00 a.m. To his knowledge the retail would be open something close to 9:00 a.m. to 5:00 p.m. Mr. White asked him if the bar would be open seven days per week, to which Mr. Sandschaper replied in the affirmative.

Interested Parties:

Marilyn Trout, 4221 S. Owasso, stated she is co-trustee of the commercial property at 4203 S. Peoria. They have day hours only on that property. She submitted letters and petitions in opposition (Exhibit A-2) and photographs (Exhibit A-3). She was informed that a screening wall between the parking lot and her neighbor's yard would be removed. She pointed out the only access to the subject property is from the residential street, 42nd Street. Her neighbors have experienced their cars being side-swiped on the street, broken beer bottles and other trash in their yards, and public indecency by bar patrons in their yards. They are concerned for parking issues and late night mischief.

Carrie Brazeal, 4203 S. Norfolk Ave., stated her opposition to the application. She lives a few houses away with her son. She mentioned other concerns listed previously.

Susan Neal, City Councilor, stated the 150' clearance is for a reason to protect the community. She encouraged the Board to give their full consideration to keep the harmony between the commercial and residential districts as possible.

Applicant's Rebuttal:

Mr. Levinson assured the Board there would be some kind of screening fence between this property and the residential property. He stated the entrance will be from Peoria or across from the body shop. He indicated that property has been configured so there is plenty of parking.

Mr. Stevens asked if there would be any outside seating and/or live bands. Mr. Levinson replied there would be no outside seating and no live bands even inside the bar, not even a juke box.

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 **DENY** a **Special Exception** to permit a bar in a CH district within 150' of an R zoned district, finding it would be injurious to the neighborhood, on the following described property:

Lots 11 and 12, Block 4, Alta Dena Place, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19826

Action Requested:

Special Exception to amend a previously approved site plan. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5, located: 2223 East Pine Street.

Presentation:

Greg Warren, stated he is the Data Resource Manager for the Tulsa Parks Department. The 10-Year Master Plan has a list of improvements to be made to Springdale Park, including a walking trail, landscape buffering, water fountains and a practice soccer field.

Comments and Questions:

Mr. White noted that Zunis splits the land north and south. Mr. Warren indicated it has been vacated.

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 amend a previously approved site plan, per plan, 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:

Lot 14, Prospect Pl. Addition, subdivision of SE/4 of Section 30, T-20-N, R-13-E, of IBM; and Lot 15, Prospect Place, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, Book 996, Pg. 583/Book 2389 Pg. 261.

NEW APPLICATIONS

Case No. 19833

Action Requested:

Variance to allow street frontage reduction from 30' to 0', located: 1387 East 54th Street North.

Presentation:

Robert Williams, P.O. Box 246, Pryor, Oklahoma, stated his request. The applicant needed a lot-split for the sale of the subject property. The applicant sold the north half first. She later sold the south half by warranty deed as she did the north half, without the proper variances or lot-split application. There are occupied homes on both properties. There are concerns regarding the access and utility availability for the northern half of the property. He stated the applicant will have a survey conducted of the property for accurate dimensions for the county records. Mr. Beach stated the new survey should be in the lot-split application for the correct legal descriptions. Warranty Deeds were submitted (Exhibit C-3).

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** to allow street frontage reduction from 30' to 0', subject to a mutual access easement to be filed of record, with a minimum of 15' access across the south half of Lot 7 to the north half; finding this to be a substantially large lot; and 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:

Lot 7, Block 4, Grimes Heights 2nd.

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Case No. 19834

Action Requested:

Special Exception to allow a fence in the required front yard to 8' high. SECTION 210.B.3 YARDS, located: 5917 N. Garrison Ave. E. and 5921 N. Garrison Ave. E.

Presentation:

Michelle Smith, 1425 E. 71st St. N., stated she represented her father, Ernie Makinson. He has had several burglaries and so he built a higher fence. He built the first high fence eight years ago. He just began building the second part of the fence. He could not keep a garden because even the produce was stolen.

obtained contracts with Mr. Charles Faudree and the Christ the King Church for parking spaces (Exhibits F-1 and F-2).

Comments and Questions:

Mr. Dunham asked what the restaurant hours would be. Mr. Long responded it would be open 5:00 p.m. to 2:00 a.m. He added that he does not anticipate having to work there, as he will be the general manager. Mr. Faudree would agree to the use of his 36 parking spaces from 4:00 p.m.; and the church would allow the use of 85 parking spaces on Lots 4 and 5, on Monday through Friday from 4:00 p.m. and Saturdays from 12:00 noon for a term of 10 years. Ms. Turnbo noted that parking across the street would be more dangerous for the pedestrian, especially at night, and with cars parked on both sides of the street. She thought the parking at the church would be safer for the customers. Mr. Long stated he contracted with both Mr. Faudree and the church because if he was able to open the restaurant, he would be running it, and it would be his job. He could not conduct business if anyone took umbrage because a few of his customers were parking in other parking lots. Mr. Alberty asked if there is going to be shared use of the church parking lot. He expected the church would have conflicting uses at times. If he does not have exclusive use then he questioned the relevance of an agreement. Mr. Long responded that he has exclusive rights as opposed to another merchant, but not over church activities. He was advised there would be 14 nights out of the year where he would use signage to guide customers to the far southwest of the lot.

Interested Parties:

Mark Clardy, 1415 S. Rockford, stated he is not opposed to the restaurant but he is opposed to not having a parking lot. He would be in favor of use of the church parking lot. Parking across the street would be too dangerous. He noted that Mr. Faudree's parking lot surface is broken up; and there is no screening on the residential side.

Mr. Boulden informed the Board that they could still proceed with consideration of the church parking today, as long as the relief granted on the subject property is contingent upon providing parking someplace.

Steven Walter, 1428 S. Rockford, noted on the parking contract with Mr. Faudree that the term of the contract is for only five years. There is a clause for right to terminate in sixty days of a written notice. He also noted a sign indicating that same parking is for four different businesses. To his count there are ten spaces in the front and 22 in the back, equaling only 32 spaces. He also pointed out the poor conditions of that parking. He submitted a letter (Exhibit F-3) from Mr. Faudree offering Brett Rehorn permission to use the same parking spaces at night for his restaurant in case BOA 19056.

Howard Neff, 1219 N. 33rd W. Ave., represented Hideaway and had no objection.

Applicant's Rebuttal:

Mr. Long introduced two people to speak.

Mark McCafferty, 1616 S. Owasso, stated he is the owner of the subject property and he is in support.

Dunham out at 3:11 p.m.

Tom Hendrick, 3726 E. 48th St., stated it is very rare that the church parking lot is full. They have Saturday night mass. Christmas Eve the lot is not full. He did not see a problem. Mr. Boulden asked if there are any other contracts for parking at the church. Mr. Hendrix replied there are not.

Mr. Long stated he offered to repair the parking lot and re-stripe it.

Dunham returned at 3:15 p.m.

Mr. Long did not agree with Mr. Walter's count of the parking spaces. Ms. Turnbo cautioned Mr. Long that he would be out of business if his parking contract was terminated. A site plan of the church property was provided (Exhibit F-4).

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 **DENY** a **Variance** of required parking from 53 spaces to 4 spaces; and **APPROVE** a **Special Exception** to allow required parking to be located on a lot other than the principal use with conditions: for a minimum of 53 parking spaces on the south side of 15th St. and within 300' of the subject property, on the following described property:

Lots 10, 11 & 12, Block 7, E 100' Lot 1, Block 7, E 100; Lot 2, Block 7, Orcutt Addition, and Lot 10, 11, 12, Block 7, Bellview, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19837

Action Requested:

Variance from the spacing requirements for outdoor advertising signs. SECTION 1221.F.2. USE CONDITIONS FOR OUTDOOR ADVERTISING SIGNS, located: 6323 E. 41st St.

Presentation:

William B. Jones, 15 E. 5th St., Ste.3800, stated his request to remove two signs and replace with one along the I-44 corridor. They have 1,210' to the next outdoor sign to the west in this corridor. To the east there are about 1,050' to the next outdoor sign. He was authorized to speak for the outdoor advertising company and the owner of the property. It would allow the owner better use of his property

Interested Parties:

John Moody, 1800 S. Baltimore, Ste. 900, stated he represented Cascia Hall and they do not oppose this application. There is a substantial flood plain that runs through Cascia Hall property, including a portion of the football field, south of the football field and occupies the existing baseball field. They cannot build in the flood plain so it impacts the whole area.

Jean Kline, 2403 S. Troost, stated that her house is about one block from the corner of the subject property. She informed the Board that since the Utica Apartments were demolished there is high grass, which makes it difficult to see traffic from 22nd Pl. to pull out on Utica. She expressed concern that adding office space would greatly increase the volume of traffic. She listed the presence of the Temple with a Day School, and Cascia Hall that would be using these streets. She was informed there would not be a traffic light at this corner. Ms. Kline surmised that traffic would then use Utica Square as a through street, causing safety issues.

Applicant’s Rebuttal:

Mr. Johnsen responded that once Cascia Hall does their proposed project the applicant did not think it would be as suitable for residential real estate at this corner. The traffic study conclusions were favorable for this project. He reminded the Board there was a ten-story medical office building on the north and east of the subject property that has been removed. Mr. Boulden asked if approval of this case would remove opposition to Cascia Hall’s development. Mr. Johnsen replied that it would. Mr. Dunham commented that he did not think this project would generate as much traffic as all the units that have been demolished in this area.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-1 (White, Dunham, Perkins, Stephens "aye"; no "nays"; Turnbo "abstained"; no “absences”) to **APPROVE** a **Variance** to increase permitted floor area within a PUD from 90,327 sq. ft. to 103,327 sq. ft., 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:

Beg. 150’ E SW/c NW NE, thence E 528’ to PT 637.05 W SECR NW N E, thence N 300’ W 531.8’ S 300’ POB, SEC 18 19 13 2.649 Acs, Beg. 40’ E SW/c NW NE, thence N 300’ E 110’ S 300’ W 110’ POB, SEC 19 10 13 0.757 AC.

Case No. 19840

Action Requested:

Variance of the required 15’ side yard to 5’. Section 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located: 3003 S Detroit Ave.

Presentation:

Lance P. McGuire, 4156 S. Birmingham Pl., proposed to expand the dimensions of the property, to be within the limits of the current offset. They will expand to the front and rear.

Comments and Questions:

Ms. Perkins asked if they were going to stay within the bounds of the existing home. He responded that it will be new construction. Ms. Perkins asked if they were tearing down the existing house. Mr. McGuire replied they planned to tear down the house. Mr. Dunham commented there is no street to the north. Mr. McGuire explained that they have tried to get the street property vacated. Since they cannot come in from that street it is not practical for a side garage. If the variance is not approved it would leave a 35' frontage, which would be the most narrow property on the block. This would make it difficult to design a house for the lot. Mr. McGuire pointed out that the house to the south of his property was also demolished and they built a 43' wide new structure. Mr. Beach stated that on a corner lot with a 15' setback requirement, the code allows new construction up to 5' from the property line.

Interested Parties:

Artis Manning, 3002 S. Detroit, stated the architecture of the new home to the south that Mr. McGuire mentioned is not comparable to the existing homes in the Maple Ridge Neighborhood.

Mr. Boulden stated there is a problem with the notice on this case. It was advertised as an addition to an existing non-conforming structure. The Board cannot take action on it today. Mr. Alberty stated that a site plan would be needed before the necessary relief can be determined.

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 **CONTINUE** Case No. 19840 to the meeting on July 13, 2004 for new notice, on the following described property:

Lot 1 Block 7, TRAVIS PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19841

Action Requested:

Variance of the average lot width from 200' to 66.85' to permit a lot-split in an AG district. SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS, located: 8421 S. Maybelle Ave.

Presentation:

Craig Rosencutter, 502 N. Emerson St., Broken Arrow, Oklahoma, proposed to use two of the three acres for the primary residence. He submitted a labeled aerial (Exhibit J-1). Tract 1 is the subject property. His grandparents own the panhandle to Elwood for access to the bulk of the property. One acre of land will extend from the main tract of property to Elwood. The dimensions would be approximately 250' x 275'.

Interested Parties:

Mr. White read a letter from the airport authority, indicating they would not oppose this lot-split. They expressed concern for any increase in the number of residences around the R.L. Jones Airport, as residential use is the least compatible form of land use near an airport (Exhibit J-2). Mr. Rosencutter responded that he and his family have lived in this area for years and are well aware of the airport noise.

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 the average lot width from 200' to 66.85' to permit a lot-split in an AG district, per plan, finding the configuration of the land that creates the requirement, on the following described property:

Prt S/2 NE Beg. SW/c S/2 NE, thence N 835.06' E 250' S 794.15' E 673.98' NE 773.59' SE 161.37' Crv. LF 102.06' NE 183.38' N 272.20 E 541. 37' NE 277.42' E 569.45' S 60' W 483.83' SW 266' E 48.26' SW 213.54' W 394.41' SW 34.96' S 635.77' E 1037.41' S 81.62' W 259' S 95' W 2405.30' to POB, Sect. 14 18 12 25.995 ACC.

OTHER BUSINESS

On **Motion of Perkins**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to retain the current slate of officers for the Board of Adjustment: David White – Chair; Monte Dunham – Vice-Chair; and Norma Turnbo - Secretary.

There being no further business, the meeting was adjourned at 4:32 p.m.

Date approved: _____

Chair