

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 816
Tuesday, April 10, 2001, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Dunham, Vice Chair	Beach	Boulden, Legal
Cooper	Butler	
White, Chair		
Perkins		
Turnbo		

The notice and agenda of said meeting was posted in the Office of INCOG, 201 W. 5th St., Suite 600, on Monday, April 9, 2001, at 8:55 a.m., as well as at the City Clerk's office, City Hall.

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

Case No. 18987

Action Requested:

Mr. Beach stated that Staff requests this case be Continued to May 22, 2001 for a site plan and possibly advertisement for more relief.

Board Action:

On **MOTION** of **Perkins**, the Board voted 5-0-0 (White, Turnbo, Perkins, Dunham "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 18987 to the meeting on May 22, 2001 for site plan and more information.

Mr. Dunham arrived 1:03 p.m.

Case No. 19051

Action Requested:

Mr. Beach informed the Board the applicant has requested a Continuance to April 24, 2001, to allow time to meet with the neighborhood residents.

Board Action:

On **MOTION** of **Perkins**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 19051 to the meeting on April 24, 2001 to give applicant time to meet with the neighborhood residents.

Case No. 19046

Action Requested:

Mr. Beach informed the Board that this case needed to be stricken from the agenda. Notice was given, but it was discovered this property is in the county; case needs to go to the County Board of Adjustment. Case was stricken from the agenda.

MINUTES:

On **MOTION** of Dunham, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** the Minutes of March 13, 2001 (No. 814), as amended.

UNFINISHED BUSINESS

Case No. 19025

Action Requested:

Special Exception to permit Use Unit 5 cultural facility not elsewhere classified/music conservatory and Use Unit 11 music school and Foundation Offices, in an RM-2 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5 & 11; a Variance of Section 1301.D. required parking to permit 90 off-site parking spaces, 4 on-site parking spaces and 60 off-site off-hours spaces available by parking easement. SECTION 1301.D. GENERAL REQUIREMENTS; a Variance of maximum building height from 35' to 60' and from 2 stories to 3 stories. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; Variance of maximum permitted floor area from .5 to 1.4. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; a Variance of building setback from 25' to 0'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; a Variance of landscaping and screening requirements. SECTION 1002. LANDSCAPE REQUIREMENTS; and a Variance of frontage 100' and lot width 50' requirements in RM-2 district to 25'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located NW/c E. 14th St. & Cheyenne.

Presentation:

Roy Johnsen, 201 W. 5th St., Ste. 501, stated he is an attorney, representing the Barthelmes Foundation. They proposed to use the facility on the subject property for a Center for Arts, specifically to teach instrumental music. After evaluating the facility the applicants have decided that it is not an adequate or safe structure; and a new structure would be needed to accommodate all of the needs. He submitted a conceptual site plan, use conditions, and photographs (Exhibits A-1, A-2, and A-3).

Mr. Cooper arrived at 1:18 p.m.

Presentation:

John Brightmire, 320 S. Boston, Ste. 500, stated he represented the applicant, Sara Lott. He submitted a packet of exhibits including findings for the required factors. He reviewed the required factors as they apply to this application

Comments and Questions:

Mr. Cooper noted that the Board has approved two cell towers at this corner in the last two years. He asked if there was any possibility to collocate. Mr. Brightmire replied that both companies collocated on the PSO power poles, and there are no new towers. Ms. Turnbo asked about the height of the pole with the emergency sirens. Mr. Brightmire responded that it was about 45' to 50' tall. She noted that the proposed tower would be twice as tall.

Interested Parties:

Kevin Shoemaker, Radio Services Manager for the City of Tulsa, stated the City is not opposed to this application with the stipulation that the weather siren is part of the structure or some amicable agreement at this location that would not interfere with the weather sirens.

Alan Madewell, 3649 S. Terwilleger, stated that his property backs up to the church next door to the fire station. He stated his opposition to the detracting of the tower to the beauty of the church architecture. He commented that the church spire on top of the hill was intended to be the dominant element in view. He pointed out the elevations of the topography and the locations of the sirens, proposed tower and siren pole, indicating the tower would dominate the view.

Mr. White commented that he received a letter of opposition from Mr. and Mrs. Henke.

Les Hilst, 2250 E. 36th St. and 3538 S. Zunis Ct., stated he owns the duplex southwest of the site. He opposes any additional towers and indicated it would set a precedent for more towers.

Phyllis Connelly, 3537 S. Zunis Ct., stated she has lived in a condominium across the street for about 20 years. She stated her opposition, indicating that nothing but clutter has been added to that corner since she moved there. She added that PSO has not taken care of their property, and as trees die they have not been replaced.

Applicant's Rebuttal:

Mr. Brightmire noted that other cellular companies may have good service in this area, but Cricket needs the tower to provide good service. He stated that they contacted the church CEO and they have not filed an objection to putting it on the church property. The existing poles at this location would not accommodate

Case No. 19029

Action Requested:

Variance of the required setback from an R district from 200' to 140' for an outdoor advertising sign. SECTION 1221.C. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, General Use Conditions for Business Signs and SECTION 1221.F. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, Use Conditions for Outdoor Advertising Signs – Use Unit 25; and a Variance of the maximum display surface area from 495 sq. ft. to 672 sq. ft. for an outdoor advertising sign. SECTION 1221.E. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, CG, CH, CBD, IL, IM, and IH Use Conditions for Business Signs, located 17701 East Admiral Place.

Presentation:

Andrea Delgiorno, 3800 First Place Tower, 15 E. 5th St., stated she had submitted a site plan with the application. The applicant proposes to place a standard size billboard in the extreme northwest corner of the subject property. They are requesting the variances because the abutting residential property is vacant, therefore, actual distance from residences would be greater. Photographs were submitted (Exhibit D-1). She stated that the hardship is that the tract is long and narrow in an IL zone, which would make it difficult to find a use for it.

Interested Parties:

Burt Skelton, 621 S. 277th E. Ave., Catoosa, Oklahoma, stated he represented Frank Murphy, Jr. who owns the property nearby. He indicated there are already numerous billboards in this area. They are concerned that if a house was built on the R zoned property next to subject property it would diminish the house.

Dominic White, 17717 E. Admiral Pl., stated he owns the business at this address, Aberdeen Dynamics. He stated his concern that a sign 150' from his would obstruct the view of his sign from traffic going west on I-44.

Comments and Questions:

Mr. White asked how tall his sign is. He replied that it was probably between 50' and 60' tall. Mr. Cooper asked Mr. Beach why separation is not an issue in this case. Mr. Beach responded if this is an outdoor advertising sign off-site, there is no spacing requirement. Ms. Perkins asked the applicant for a hardship. Ms. Delgiorno responded that the lot is narrow compared to the wider industrial properties in the area. She added that they would like to use the front of this tract of land for used mobile homes sales.

Board Action:

On **MOTION** of **Dunham**, the Board voted 2-3-0 (White, Dunham, "aye"; Turnbo, Perkins, Cooper "nay"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the required setback from an R district from 200' to 140' for an outdoor advertising sign; and a **Variance** of the maximum display surface area from 495 sq. ft. to 672 sq. ft. for an outdoor advertising sign, finding the size of the lots in this

She cited a mugging in this area, finding razors on the playground, numerous 911 calls from this location. They are questioning activities in the building used by the Cosmopolitan Club for dances, and bingo as to whether they have open bars. They would like to know if there are restrictions on the activities that take place there. They also have complaints regarding traffic safety, drainage problems, an opening in the fence allowing easy access to the school and Tract C. They request to know the name of the purchaser and the proposed plans since two businesses on the property had to close for remodeling. She showed photographs from the exhibits, a letter from the principal of Kerr Elementary School listing concerns, and a copy of the list of 911 calls from the Magic Bottle and Cosmopolitan Club.

Wayne Bohanon, 10617 E. 1st St., president of the Wagonwheel Neighborhood Association, stated they are in agreement with Ms. Creighton's protests.

Dr. Larry Cowen, 201 S. Garnett, stated his concern for the safety of the neurological patients at Brookhaven and the public. He informed the Board that they have had three incidents in the last three years involving patrons of the Magic Bottle that were intoxicated and caused damage to their property. The noise and disturbances at the bar cause agitation and problems for the neurological patients. They have had incidents of the bar patrons jumping the fence into the private yard of the hospital.

Robert Cartner, 11322 E. 3rd St., stated he is a long time resident of the neighborhood. He complained of incidents of loud fights, music, automobile wrecks, ammunition and gun shells on the bar parking lot, public drunkenness.

Councilor Art Justice, 1302 S. 122nd E. Ave., stated he is opposed to bars in such close proximity to the schools. He mentioned his concern for public safety in regards to this application. He added that Garnett is going to be widened and there will be more traffic. He is opposed to the application.

A list of signatures for interested parties in opposition (Exhibit E-2) and present at this hearing was entered for the record.

Applicant's Rebuttal:

Mr. Lower, stated that anything at the Cosmopolitan Club on Tract C would be outside of the scope of this application. He stated that it would just be the remainder tract after the lot split, and only Tracts A and B are involved. The plan is to make a parking lot on Tract B and the distance from the school is not going to change. The fence line for Tract C would be out the control of the applicant.

Comments and Questions:

Mr. Dunham commented that this bar has been non-conforming for parking and questioned why it should be allowed to continue. Mr. Beach noted that no one noticed that this bar did not come into compliance with the Code requirements until

they applied for a new liquor license. It may not be the applicant's intent to have anything to do with Tract C, but they do have because it is part of the property. A lot split may not be approved that would create any violation of the Zoning Code. Mr. Beach noted that there is no one present to represent the Cosmopolitan Club to inform the Board regarding the use of their building. Mr. Cooper asked the applicant if the bar existed there before the school and hospital. Mr. Lower replied that it was there before the hospital but he was not sure about the school. Mr. Cooper asked if they intend to increase the size of the bar. Mr. Lower offered to let his client respond.

Kenneth Teague, 3060 N. Hemlock Circle, Broken Arrow, Oklahoma, stated his business owns Tract A. He responded that the process began with an offer to lease Tract B for parking, and the counter-offer from the Cosmopolitan Club was for the applicant to purchase the property. The bar would not be enlarged and the small beauty shop business moved out. They have plans to tear out an interior wall, renovate the building to meet all City Zoning Codes, deal with the drainage problem, build privacy fence between R district and commercial property.

Mr. Cooper suggested that the case should be continued until someone could represent the Cosmopolitan Club. Mr. Beach was in agreement if the lot split were to be approved. Mr. Dunham suggested that it would help to clear things up if there were more communication between the applicant and the neighborhood. He asked Ms. Creighton if they would be open to discussion with the applicant. She replied that they are always open to communication. She added that Tract C frontage would be affected by the Variance.

Ms. Turnbo informed the Board she has a conflict of interest, and stated she would abstain in this case.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-1 (White, Dunham, Perkins, Cooper "aye"; no "nays"; Turnbo "abstained"; no "absences") to **CONTINUE** Case No. 19033 to the hearing on May 8, 2001 to allow the applicant to communicate with the neighborhood.

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Case No. 19034

Action Requested:

Variance of required 1,000' spacing from another sexually oriented business to 675' to permit a gentlemen's club. SECTION 705.B.1. LOCATION OF SEXUALLY-ORIENTED BUSINESSES, Prohibition – Use Unit 12a, located 514 E. 2nd St.

Presentation:

Brian Hoff, 514 E. 2nd St., stated the request for a Variance is based on the following reasons: the two sexually oriented businesses face different streets; the locations are not visible from one another; each business has a different customer base; plans are for a high-dollar reparations to the vacant facility; to bring diversity and revenue to downtown; and a draw for other businesses.

Comments and Questions:

Mr. White asked for a hardship. Mr. Hoff had no hardship to offer due to the land.

Interested Parties:

Wilson White, 3126 E. 58th PI, stated he is part owner of Block 110 since 1978. He opposed the application because of: no parking on the site; closest parking is across the street; second street is one way; closest street light is one block away; no hardship; within 1,000' of another sexually oriented business; a draw for other businesses of the same type; close proximity to the new Williams Tower and other future important economic developments.

David White, 5020 E. 68th, stated he is part owner of Block 110, and was speaking for himself and his sister also co-owner, in opposition of this application. They are in full agreement with the statements of Wilson White. He added that it would cause a hardship for surrounding property owners to police their properties, and for trash removal caused by this type of business.

Ray Meldrum, 111 S. Greenwood, Tulsa Development Authority, stated they are also opposed to the application. He assumed that the Board received a letter from Brenda Miller. They are opposed for the above-mentioned reasons and do not want to see this type of district started.

Jim Norton stated he is president of Downtown Tulsa Unlimited. Speaking for the businesses and property owners of Downtown Tulsa Unlimited and the Special Improvement District he stated they are very opposed to this application. They have made a contract with a planning and engineering firm to do a master plan and market study for the development of a broad area of downtown, including this property. This would be most inappropriate use for the long-term future of downtown. He added that George Shahadi, Vice-President of real estate for Williams Co. asked that he relate to the Board that they are very concerned that this use would detract from the business and prospective employees for their new development.

Roger Coffey, 3519 S. Birmingham, stated he is with Olsen Coffey Architects, and he and his partner own property at 324 E. 3rd St., and he owns another downtown property. He stated that the Tulsa downtown has been struggling and we need more positive things to turn it around. He does not consider this use to be positive and asked the Board to deny this application.

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Bill White, 414 E. 4th, stated he owns a business at this address. He is opposed to the application stating it would be a step backward in revitalizing downtown. Mr. White commented that he would expect any business that would require 150 parking spaces would out of courtesy contact the neighboring business regarding lease or use of parking space. He noted that no such contact has been made, and it would appear that they intend to use neighboring parking space without consent.

Nancy White, stated that she and her family are very concerned about this application. She described this use as a negative impact on downtown Tulsa. She added that as the owner of the block to the east of the subject property, she is opposed to this case.

Randy Frederick, stated he has worked around the block from the subject property. He added that they have had to fence their parking lot to protect the property from evidences of use by bar patrons.

George Paden, interim administrator for the First Baptist Church at 4th and Cincinnati, stated he represented the members and requested denial of the variance.

Amy Finkston, attorney, stated she represented the Mary C. Harder Trust and H & M Beveling Machine Co. The Trust owns property at 214 S. Elgin, a parking lot, and at 311 E. 3rd St., the company facility. Both entities are opposed to the variance for all of the above reasons.

Mr. White noted three letters of opposition from Brenda Miller, Tulsa Development Authority, John D. Williams, of John D. Williams Land and Commercial Investments, and Donna Sack, of Sack and Associates.

Applicant's Rebuttal:

Mr. Hoff indicated that since the property is located in a central business district, there is no actual requirement for availability of parking. He reminded the Board that office employees would use parking during the day and the club would need the parking at night. The same is true of the traffic; it is heavier during the day and much less at night. He described the business as very respectable and would not pose a threat to daytime employees. He added that it would be policed inside and outside.

Comments and Questions:

Ms. Perkins asked about the hours of operation. Mr. Hoff responded the hours would be from 4:00 p.m. to 2:00 a.m. during the week and on Saturday from 11:00 a.m. until 2:00 a.m., and closed on Sundays.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Variance** of required 1,000' spacing from another sexually oriented business to 675' to permit a gentlemen's club, finding lack of a hardship.

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There being no further business, the meeting was adjourned at 4:16 p.m.

Date approved: JUNE 26, 2001



Chair