

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 900
Tuesday, November 23, 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
White, Chair

**MEMBERS
ABSENT**

Turnbo

**STAFF
PRESENT**

Alberty
Butler

**OTHERS
PRESENT**

Romig, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Friday, November 19, 2004, at 9:23 a.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. Wayne Alberty read the rules and procedures for the Board of Adjustment Public Hearing.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 19874

Action Requested:

Appeal from the determination that the operations on the subject property do not violate the light industrial classification. Appellant contends there are environmental influences from emission of odors from the operation of a blast furnace on the subject property, located: 4133 South 72nd Avenue East.

Presentation:

Mr. Alberty stated the applicant asked for a continuance to December 28, 2004, but that is not an option. It would need to be December 14, 2004 or January 11, 2005. A letter with the request for continuance was provided (Exhibit A-1).

Jim Lieber, stated he represented the applicant, Consolidated Printing Solutions. He requested the first meeting in January 2005.

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, Stephens, Paddock "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 19874 to the meeting of January 11, 2005, on the following described property:

LTS 13 & 14 BLK 8, KATY FREEWAY INDUSTRIAL PARK ADDN

* * * * *

Case No. 19940

Action Requested:

Special Exception to vary the height of a bell tower from 52.5 ft to 106 ft, SECTION 208.C.; Variance to vary the building height from 52.5 ft to 64.0 ft, SECTION 403.A., located: 10310 South Sheridan Road.

Presentation:

Mr. Alberty informed the Board that the case required new advertising. The applicant was contacted. He recommended continuance to December 14, 2004.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Stephens, Paddock "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 19940, to the meeting on December 14, 2004, on the following described property:

NW NE NE LESS BEG NWC NE NE TH E399 S660.53 W TO PT N TO POB & LESS BEG 746.15W NEC NE NE TH S300 W180 N300 E180 POB SEC 27 18 13, NE NE NE LESS N454 E281 & LESS BEG 281W NEC NE NE TH S295 E14 N APR 52 W APR 189 N103 CRV LF 40.36 NW15.22 CRV RT 40.36 N50 E232 POB SEC 27 18 13, AND LT 1 BLK 1 AND RESERVE A, , SOUTH TULSA BAPTIST CHURCH

* * * * *

Case No. 19944

Action Requested:

Variance of average lot width for Lot 1 and Lot 2, Block 1, from the required 75' to 108' in an RS-2 district, located: Southeast Corner of Country Club Drive and Haskell Street.

Presentation:

Mr. Alberty stated this case required new advertising and he recommended December 14, 2004.

Jeff Beason, 415 East Independence, stated he was with the Tulsa Housing Authority. They did not have an objection to a continuance.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Stephens, Paddock "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 19944, to the meeting on December 14, 2004, on the following described property:

A tract of land located in the E/2 of Section 34, T-20-N, R-12-E of the IBM, City of Tulsa, Osage County, State of Oklahoma, being a part of Lots 2, 3, 6 and 7, Block 3, South Osage Hills Addition, according to the recorded plat thereof, more particularly described as follows: Commencing at the Southwest Corner of Osage Duplexes, said point being on the W right-of-way line of Country Club Drive; thence S 89°54'53" E along the S line of said Osage Duplexes for 60.00' to the POB; thence continuing along a S line of said Osage Duplexes on a non-tangent curve to the right with an initial tangent bearing of N 0°05'07" E, a central angle of 90°30'12", a radius of 25.00, and an arc length of 39.49'; thence S 89°24'41" E continuing along a S line of said Osage Duplexes and the S right-of-way of West Haskell Street for 224.19'; thence continuing along a S line of said Osage Duplexes on a curve to the right with central angle of 89°29'48", a radius of 25.00', and an arc length of 39.05'; thence S 0°05'07" W line of said Osage Duplexes, and the W right-of-way of North Osage Drive, for 282.09'; thence N 89°54'18" W along the S line of said Lot 3, Block 3, South Osage Hills Addition, for 149.91'; thence N 0°02'50" E along the W line of said Lot 3, Block 3, South Osage Hills Addition, for 13.50'; thence N 89°51'58" E for 15.98'; thence N 84°19'54" W for 153.96' to a point on the W line of Block 3, South Osage Hills Addition, and also being the E right-of-way line of Country Club Drive; thence along the W line of said Block 3, South Osage Hills Addition, on a non-tangent curve to the left with an initial tangent bearing of N 24°12'19" E, a central angle of 24°07'12", a radius of 514.07', and an arc length of 216.41'; thence N 0°05'07" E for 45.54' to the POB

NEW APPLICATIONS

Case No. 19937

Action Requested:

Special exception to permit church use in an RM-2 district -- SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS; variance of required number of parking spaces from 69 to 50 - SECTION 1205.C. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES, Off-Street Parking and Loading Requirements; variance to allow existing church parking in the front yard - SECTION 1205.B.1. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES, Included Uses; variance of setback for parking from 50 ft to 6 ft for existing parking - SECTION 1302. SETBACKS; and variance of landscape requirements -

SECTION 1002. LANDSCAPE REQUIREMENTS -- Use Unit 5, located: 2645 East 6th Street South.

Presentation:

Fr. George Eber, stated he represented St. Anthony's Orthodox Church, at 6th and Columbia. They proposed to expand the parking.

Comments and Questions:

Mr. Dunham asked about the plans for the apartment building. He replied it would continue to be apartments until they complete their plans. Mr. Alberty indicated it could continue with the existing use. Mr. Romig was in agreement until such time the use is changed for church use. Mr. White asked if Lot 9 and the N/2 E/2 of Lot 12 were under the church ownership. Fr. Eber responded that they were not, but if given the opportunity they would like to purchase them.

Interested Parties:

Maria Barnes, 2252 East 7th Street, stated she is the President of the Kendall-Whittier Neighborhood Association. She stated that the applicant has worked with the neighborhood. They are in support of the application.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Stephens, Paddock "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to permit church use in an RM-2 district, subject to a tie-agreement of all the lots in the legal description; a **Variance** of required number of parking spaces from 69 to 50 for a period of four years, to allow time to complete a master plan to meet the parking requirements; a **Variance** to allow existing church parking in the front yard; a **Variance** of setback for parking from 50 ft. to 6 ft. for existing parking; and a **Variance** of landscape requirements on Lot 17 only, finding this is an existing condition, and that the applicant will complete a master plan for parking and landscaping, on the following described property:

LOT 6, 7, 8, 10, BLK 2, W/2 LOT 11 BLK 2, S/2 E/2 OF LOT 12 BLK 2, LTS 13 THRU 20 BLK2, HIGHLANDS 2ND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

Case No. 19938

Action Requested:

Variance of setbacks from center line of E. 21st Street from 80 ft to 50 ft and from the center line of S. Yorktown Ave. from 55 ft to 30 ft, SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS; and a special exception of the FAR from .34% to .37% for additions to the existing office building, SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS, located: 2105 East 21st Street South.

Presentation:

David Center, 208 East New Orleans, Broken Arrow, Oklahoma, stated he represented Dr. Greer and his wife Joy. When the structure was built in the 1950's it met setback and right-of-way requirements. Since then, 21st Street has widened and it no longer meets right-of-way requirements. They proposed to update the façade, and do remodeling to meet handicapped requirements, and general patient access. This would include enclosing the porches and adding approximately 200 sq. ft. to the east side of the building. A site plan was provided (Exhibit B-1).

Comments and Questions:

Mr. White asked if the front of the building would extend beyond the face of the existing building. Mr. Center responded that they would add a layer of brick to the front, so it would be a matter of inches. He added they would not be building anything toward Yorktown. Mr. Center stated the building is on Lot 12, zoned OL and Lot 11 is zoned OM. He understood the floor area ratio only applies to Lot 12. Mr. White noted the Board of Adjustment approval in 1992 called for a tie agreement.

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, Stephens, Paddock "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of setbacks from center line of East 21st Street from 80 ft. to 50 ft. and from the center line of S. Yorktown Ave. from 55 ft. to 30 ft., finding this is an existing condition and the existing setback is essentially unchanged; and a **Special Exception** of the FAR from .34% to .37% for additions to the existing office building, per plan, subject to a tie agreement of the two lots making the FAR ratio well below the requirement, finding it would not be detrimental to the neighborhood, on the following described property:

LT 11 & LT 12, BLK 10, WOODWARD PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 19939

Action Requested:

Variance of required 300 foot spacing between Adult Entertainment Establishments to permit a night club in a CS district -- SECTION 1212a.C.3.c -- Use Unit 12a, located: 8140 East 27th Street.

Presentation:

Sandra Gomez, stated she owns Red Neck Country in Catoosa, Oklahoma. She also owns Red Neck Kid Productions, which promotes and produces country music. Ms. Gomez proposed to open their club on the subject property.

Comments and Questions:

Mr. Dunham asked the distance of the other adult entertainment business from this one. Ms. Gomez did not have that measurement. Mr. White asked for the hardship. She was not able to provide a hardship.

Interested Parties:

Frank Edwards, stated he is the owner of the subject property. He explained that Ms. Gomez is transferring her liquor license for this business, which would be a dance hall. He believed it to be an optimal use for the property. Mr. Edwards pointed out if the night club does not open until 6:00 p.m., the office next door would be closed, and it would be compatible with the other businesses operating at that hour.

Jack Wright, stated he is with American Southwest Properties, and they own the property to the south of the subject property. He did not think it was an appropriate location because of the proximity to the club on his property, the low budget motels and a criminal element in the area. They objected to a variance for this business.

Mr. White noted two letters of objection to the application, one from Mr. Wright and one from Councilor Roop (Exhibits C-1 and C-2).

Applicant's Rebuttal:

Ms. Gomez explained there is no sexually oriented entertainment in her club. Mr. Dunham reminded her that she needs to state a hardship and explained what that means. Mr. Stephens encouraged the applicant to consider a restaurant license instead. Mr. Dunham informed her of the right to put in a restaurant without relief but not a club.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Stephens, Paddock "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **DENY** a **Variance** of required 300 foot spacing between Adult Entertainment Establishments to permit a night club in a CS district, for lack of a hardship, on the following described property:

N150 E50 LT 1, ALL LT 2&3, BLK 2, TRI CENTER, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 19941

Action Requested:

Special exception to allow indoor only automobile sales in a CS District, SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS -- Use Unit 17, 710 South Lewis Avenue East.

Presentation:

Paul Prather, 525 South Main, Suite 1000, stated he represented LFP Wholesale Automobiles, LLC. He submitted photographs (Exhibit D-1). He described the physical aspects of the long building on a long, narrow lot. This request is for indoor sales only of automobiles. There would be no autos stored outside, no open storage, no open display, and no sale signs on vehicles outside. He submitted a list of previous actions (Exhibit D-2), which he reviewed for the Board. He pointed out that it was previously used for the sale of auto accessories. He stated there are two large garage style doors on either end of the building, and a heavy brick wall across the back length of the building. The full length of the front of the building has a display window. He listed the types of businesses that are allowed by right at this location. They plan to paint it a neutral color and have one sign only. The applicant offered a list of conditions for: hours of operation 9:00 a.m. to 8:00 p.m., Monday through Saturday, no outdoor sales, no outside storage, and one sign as allowed (Exhibit D-3). He mentioned that in the Kendall-Whittier Task Force meeting there were no complaints regarding this application.

Comments and Questions:

Mr. Dunham asked if he tried to meet with the Kendall-Whittier Neighborhood Association. He replied that he did not contact them but they had not contacted him either.

Interested Parties:

Maria Barnes, 2252 East 7th Street, stated she is the President of the Kendall-Whittier Neighborhood Association. She noted that this type of a business has been denied several times because it is not appropriate for the neighborhood. The cars are delivered on semi-trucks and there is no place for them to park and unload. The Master Plan calls for a green space on this property with special lighting and benches. Mr. Dunham remembered the district court approved the appeal for the use of the south half of the building. Ms. Barnes responded that it is still in use. Mr. Dunham stated that it would be up to the owner of the property as to the removal of the building for a green space. The point is the lack of parking space for any use of this building. Ms. Barnes stated they would be willing to discuss it further with Mr. Prather.

Applicant's Rebuttal:

Mr. Prather suggested approval for the use on a temporary basis.

Mr. White asked if there was a survey to determine the dimensions for parking. Mr. Prather replied that he has not seen a survey but he would supply one at the

request of the Board. He added that the applicant was willing to stay within the codes. He did not anticipate loads of cars being delivered by semi-trucks, but transported one at a time. They would be open to a condition for delivery on only certain days of the week. Mr. Paddock noted the building appeared to be filled with automobiles. If this was approved he asked how the use of the building would change. Mr. Prather replied the use previously was for auto alarms, but the tenant has left. He added that he had the cars placed to show the Board how it would appear, but the building is not being used for business.

Board discussion ensued.

Board Action:

Motion of Dunham, the Board voted 4-0-0 (White, Dunham, Stephens, Paddock "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 19941 to the meeting on December 14, 2004, to allow the applicant and interested parties to discuss the issues, on the following described property:

LT 1, BLK 6, HILLCREST ADDN

*.*****.

Mr. Paddock out at 2:20 p.m.

Case No. 19943

Action Requested:

Special Exception to permit a public elementary school in an OL district, located: 1/2 mi S and 1/4 mi W of S 145 E Av and E 41 St.

Mr. Paddock returned at 2:22 p.m.

Mr. White out at 2:22 p.m.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, stated he represented the Union Public Schools District. He introduced Dr. Cathy Burton, the Superintendent of Schools, Jerrod Mendenhall, the Assistant Superintendent for Special Services, and Michelle Bergin, the Director of Construction Management for the school district. The school district occupies about 28 square miles. It is one of the more rapidly growing districts in the area and well supported by the patrons.

Mr. White returned at 2:24 p.m.

This would be the twelfth elementary school within the Union District. The population continues to grow and this would allow them to reallocate the elementary student population in the area and provide for all-day kindergarten, which will be mandated in the year 2006. This application is for the west forty acres of the 79.7 acre property as reflected in the legal advertisement. The Quik

Trip Headquarters in a Planned Unit Development is to the west, a drainage basin is on the south, the Quail Ridge neighborhood is to the northwest, and the Crystal Creek plat has been approved for over one hundred single-family lots to the south. He pointed out the only existing access is from 129th East Avenue over East 45th Street, which is a collector street with a 36' wide paving section. The north/south connection is 135th East Avenue 60' of right-of-way and 36' wide paving. Quik Trip has agreed to donate a parcel of land about 80' x 210' at the northeast corner of their property in PUD-635 to permit an extension of the collector street. He showed that the topography to the south would prohibit access. The applicant discussed plans with the Quail Ridge Neighborhood Association and they have agreed to purchase a 75' strip from the Mayo's east of the school property. They will build a construction access road to 145th Street. They have planned a relocation of the school buildings further to the south after discussion with the Technical Advisory Committee and the neighborhood. He pointed out a separate drive for buses to load and unload students. They have considered the traffic patterns, hours of heaviest traffic volume and the impact to the neighborhood.

Comments and Questions:

Mr. White verified with Mr. Norman that the application was only for the west half of the 79 acres. Mr. White asked for the time frame of construction for the paved street. Mr. Norman replied it would be ready for the opening of the school, and the construction access would be open temporarily.

Interested Parties:

Jo Ann McKeel, 4533 South 135th East Avenue, submitted a map (Exhibit D-6) for illustration. She expressed concern for traffic on 135th Street, stating it would have a detrimental affect on the neighborhood. She pointed out that 135th Street is short and stubbed at 46th Street. The school district plans to open 135th Street to dead end onto the school property. She stated that for every 100 parents delivering students it would add 400 vehicles to their street each day, not including the employees at the school, delivery trucks and the proposed ten buses. She felt it would devastate the livability of the neighborhood and the safety on their streets. They appreciate the changes the school has made for traffic in consideration for the neighborhood. She added that the school district has no plans for a second access. She opposed the application for these reasons.

Mr. Stephens out at 2:43 p.m.

Ronald Miller, 4527 South 135th East Avenue, stated the AG district to the north has been pointed out as a future development. He informed the Board that the owner of that property has no plans to develop the property. He was concerned about the use of ballfields and lighting. He pointed out the stub street is not 36' wide, and the access from Quik Trip property would require a sharp left turn. He added comments in agreement with previous statements of concern.

Mr. Stephens returned at 2:45 p.m.

Billie Stafford, 12905 East 45th, stated she lives at the corner of 129th and 46th Street. She also expressed concerns regarding the traffic.

Laura Atherton, 13261 East 46th Street stated concerns for traffic and safety.

Mr. Dunham out at 2:49 p.m.

Patrick Kuykendal, 4511 South 42nd East Avenue, stated traffic concerns. He questioned what would be done on the rest of the property.

Mr. Dunham returned at 2:53 p.m.

A list of interested parties present at this meeting was added to the exhibits (Exhibit E-1).

Applicant's Rebuttal:

Mr. Norman was assured that the school district was very safety conscious. He informed the Board that the applicant and some of the interested parties met with Fred Calkins, the Assistant Fire Marshall. Mr. Calkins assured them there was not a safety problem having a single point of access. The school building itself would be constructed with the highest standards of safety codes. They did not consider the streets to be inadequate for emergencies. According to Daryl French the design capacity for a collector street is 3,000 trips per day, and the average is about 1,500 trips per day. The use would be well below the capacity. Mr. Norman referred to the concern over development of the rest of the property. He explained to the Board that the terrain was very rough with a lot of rock coming out of the ground. There would probably never be another use but it would have to come before the Board for an amended site plan. If the future playing fields were to be developed, there would be no lights for night time use. The district has been criticized for not planning ahead but this is a project in which they are planning ahead. The planning team, including the architectural and engineering consultants, have considered all of these concerns.

Comments and Questions:

Mr. Paddock asked Mr. Norman for the process that Union Public Schools used to reallocate the budget to fund construction of a permanent road. Mr. Norman replied that he was describing the reallocation of students not so much economic resources. Mr. Paddock asked if they considered ways to manage the funds so the permanent road could be built and then add other things to the school later. Mr. Norman stated that the school districts have never been asked to construct off-site road improvements. In this case, the only way to gain access to an existing street was to do this temporary street. This road would have an all-weather surface. Mr. White asked if the construction road would possibly be used in the future for any form of access. Mr. Norman replied that the preliminary plat that was filed includes the two panhandles, the one to the west and one to 145th Street as part of a one block, one lot subdivision.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Stephens, Paddock "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to permit a public elementary school in an OL district, noting this is on the W/2 N/2 of the SE/4 Section 28 19 14, with conditions: that all construction traffic on this phase of construction enter along the northern boundary of the E/2 of the N/2, with a permanent access point to the east to 145th West Avenue be in place when the school opens; no lighted playing fields; all parking lot lights and other lighting be diffused away from the neighborhood, per site plan, on the following described property:

N/2 SE/4 Section 28 19 14

Case No. 19945

Action Requested:

Special Exception to allow single-family residential use in a CS-zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 6, located: NW/c Country Club Dr. & W. Independence.

Presentation:

Jeff Beason, 415 East Independence, Tulsa Housing Authority, stated this is Project VII of the Hope VI Project. This is along the golf course and there would not be any future commercial development in this area.

Board Action:

Motion of **Dunham**, the Board voted 4-0-0 (White, Dunham, Stephens, Paddock "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to allow single-family residential use in a CS-zoned district, finding this would be consistent with the development in the area and would not be detrimental to the neighborhood, on the following described property:

There being no further business, the meeting was adjourned at 3:34 p.m.

Date approved: _____

Chair