

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 919
Tuesday, September 27, 2005, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Chair
Henke, Secretary
Stead
Stephens

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Alberty
Butler
Cuthbertson

**OTHERS
PRESENT**

Ackermann, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Thursday, September 22, 2005, at 4:19 p.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

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

Mr. Cuthbertson read the rules and procedures for the Board of Adjustment Public Hearing.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20096

Action Requested:

Variance of maximum allowed floor area for an accessory building in an RS-3 district to permit a 4,000 sq ft building and a 800 sq ft building (Section 402.B.1.d); Variance of maximum height of an accessory building from 18 ft to 20 ft(Section 210.B.5.a), located: 15362 East 13th Street South.

Presentation:

The applicant, **David L. Cook**, was unable to attend and requested a continuance to October 11, 2005. Mr. Cuthbertson added that Mr. Johnson with the Homeowners' Association also asked for a continuance.

Board Action:

On **Motion** of **Henke**, the Board voted 3-1-0 (Dunham, Stephens, Henke "aye"; Stead no "nay"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20096 to the meeting on October 11, 2005. The Board noted this was the third

continuance and Mr. Dunham and Ms. Stead stated they would not be inclined to continue it again. Mr. Dunham informed staff that the applicant would have to have representation next time.

Case No. 20117

Action Requested:

Variance of the required 146 parking spaces (Section 1212a.D) to 137 spaces; and a Special Exception of the 150 ft distance requirement from an R zoned district for a U.U. 12a to 0 ft (Section 701), 9445 East 31st Street South.

Presentation:

Mr. Cuthbertson informed the Board that **Nivard Olmos**, the applicant withdrew the case the day before.

LT 1 BLK 1, LONGVIEW LAKE ESTATES B1-14, 3100 CENTER ADDN RESUB
LONGVIEW LAKE EST CTR 2ND ADDN AMD, City of Tulsa, Tulsa County,
State of Oklahoma

MINUTES

On **MOTION** of **Stead**, the Board voted 4-0-0 (Dunham, Henke, Stead, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of September 13, 2005 (No. 918).

NEW APPLICATIONS

Case No. 20118

Action Requested:

Special Exception to permit a public park on the subject property, 10901 East 61st Street South.

Presentation:

Greg Warren, Data Resource Manager for the City of Tulsa, represented the Mayor and City Council for a Use Unit 5 Park at an existing detention site. There is a ball diamond and walking trail on the property. A copy of the legal description was provided (Exhibit B-1).

Comments and Questions:

Mr. Warren responded to questions, letting them know it will be named and put on the website. The facility would be primarily a detention facility under Public Works.

Interested Parties:

Roy Eshley, 5623 South 107th, asked if they would have a fence and parking area. He was concerned about litter.

Jeannie Murphy, 7701 East 98th Place, was in support of people using the property as a park. She suggested parking on the east side of the pond would be helpful.

John Moody, 1800 South Boston, Suite 900, represented BCF Associates. He reminded the Board that they approved the spacing requirement for a sexually oriented business on 58th Street in February 2005. At that time the Board determined this property was not a park. He stated the boundaries of the description give in the notice for the property do not close and it is not a legal description.

Mr. Dunham out at 1:45 p.m.

Mr. Moody stated it would be against the constitution for the Board to continue as this case was noticed without a proper legal description. He submitted a Motion to Stay Proceedings or in the alternative to deny this application (Exhibit B-2) or continue proceedings until after December 12, 2005 after the trial.

Mr. Dunham returned at 1:47 p.m.

Ms. Stead stated that this is a different case than his previous case. Mr. Moody responded that this case denies his client equal protection of the law.

Kurt Ackermann commented that staff provided notice with approximate location of the property and considered it legal for notice purposes. He stated if there is a revised legal description with all the boundaries closed that would be better if the Board decides to approve. Mr. Dunham commented that if the special exception was approved it would be a legal park.

Mr. Dunham noted there has been a question regarding parking and fencing. Mr. Cuthbertson stated there are no fencing or parking requirements for this park in the zoning code. Parking would be required if there was a stadium or a community center within the park. The zoning code provides for the Board to approve the special exception with any conditions as needed for the neighborhood.

Mr. Alberty suggested the Board may need more detailed site plans for this property as a park.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (Dunham, Stephens, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special**

Exception to permit a public park on the subject property, described correctly in the RB12 legal description submitted with revision of 9/27/05; subject to the Public Works and/or Parks Department submitting a site plan addressing the parking facilities and/or fencing according to the wishes of the neighborhood; per amended legal description, 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:

A tract of land situated in the SE quarter of Section 31, T-19-N, R-14-E of the Indian Base and Meridian, Tulsa County, State of Oklahoma being more particularly described as follows, to-wit: Commencing at the SE corner of said SE/4; Thence S 88° 43' 21" W for 808.19 feet Thence N 00° 57' 37" W for 30 feet to the point of beginning of said description: Thence S 88° 43' 21" W for 237.30 feet; Thence N 82° 44' 20" W for 134.70 feet; Thence S 88° 43' 21" W for 230.04 feet; Thence N 01° 21' 01" W for 20.00 feet; Thence S 88° 43' 21" W for 228.60 feet; Thence N 72° 28' 13" E for 53.08 feet; Thence N 01° 50' 44" W for 217.99 feet; Thence N 40° 53' 29" W for 235.53 feet; Thence S 88° 40' 20" W for 216.72 feet; Thence N 01° 22' 20" W for 324.02 feet; Thence N 88° 40' 07" E for 244.62 feet; Thence N 00° 44' 55" W for 675.92 feet; Thence N 88° 39' 03" E for 383.21 feet; Thence S 01° 21' 01" E for 660.87 feet; Thence N 88° 39' 19" E for 660.28 feet; Thence S 01° 21' 13" E for 660.59 feet; Thence S 88° 42' 08" W for 139.61 feet; Thence S 00° 57' 37" E for 1291.83 feet; to the point of beginning and containing 47.21 acres or 2056454.5 square feet more or less.

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Case No. 20120

Action Requested:

Verification of required distance of 300 ft between the proposed liquor store and a blood bank, plasma center, day labor hiring center, pawn shop, and another liquor store. (Section 1214.C.3), located: 6525 East 51st Street South.

Presentation:

Bob Rusley, 8747 South 68th East Avenue, stated he is the current tenant of the subject property. He has operated a True Value Hardware Store for fifteen years there but he lost business to bigger stores. He applied for a liquor license with the A.B.L.E. Commission to open a liquor store. The City requested a verification of the spacing requirement.

Interested Parties:

George Prothos, 4852 South 67th East Avenue, stated he is a resident of the Park Plaza VI Addition and member of the Board of the Park Plaza VI and VII Neighborhood Associations. He stated they object to another liquor store.

Mr. Dunham explained that the spacing requirement is for no less than 300 ft. from the closest wall of one liquor store to another.

Beverly Heady, 4855 South 67th East Avenue, stated she is the President of the Homeowners' Association for the City of Tulsa Park Plaza VI and VII. She added they would prefer a family-oriented business. She submitted a map (Exhibit C-1).

Comments and Questions:

Mr. Dunham was confident that the evidence presented by the applicant, including a certificate from Nickle and Associates, Inc., shows that they meet the 300 ft. spacing requirement.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (Dunham, Stephens, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Verification of required distance of 300 ft between the proposed liquor store and a blood bank, plasma center, day labor hiring center, pawn shop, and another liquor store (Section 1214.C.3), according to certificate dated August 9, 2005 by Nickle and Associates, Inc. Land Surveyors, on the following described property:

LT 5 & W 65 OF LT 6 BLK 1, F D M CENTER, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20121

Action Requested:

Variance of the required front yard in an RS-1 district from 35 ft. to 25 ft. for an addition to the existing garage (Section 403), located: 2520 East 45th Street South.

Presentation:

Jeff Moellers, 2520 East 45th, stated he contacted the neighbors to their immediate east and they had no objections. He mentioned there were varied setbacks of the houses from the street.

Comments and Questions:

Ms. Stead asked for the hardship and Mr. Moellers replied there was no room to build on the east or west. She considered this a self-imposed hardship.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Henke**, the Board voted 4-0-0 (Dunham, Stephens, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Variance** of the required front yard in an RS-1 district from 35 ft. to 25 ft. for an addition to the existing garage. (Section 403), finding a lack of hardship, on the following described property:

E110 LT 11, BARROW'S ORCHARD ACRES, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20122

Action Requested:

Variance of maximum sign height of 50 ft. in an IL district to permit a 100 ft. sign along I-44 (Section 1221.E.1), located: 18725 East Admiral Place.

Presentation:

Dan Sanford, 6216 South Cedar Avenue, provided slides to show the area where the property is located.

James Adair, 75080 South 77th, pointed out the very large and tall signs in the area, and the clutter of signs. He added that there are trees blocking the visibility and could cause a hazardous situation during heavy traffic for vehicles to make the exit. He indicated the trees are the hardship. He mentioned the 60 ft. Quik Trip sign. Mr. Adair stated they only want to identify the Holiday Inn Express for traffic going both ways so traffic will have time to make the exit.

Mr. Sanford submitted photographs (Exhibit D-1) to show several signs 68 to 88 ft.

Interested Parties:

Jack Bogard, 3690 East 390 Road, Oologah, Oklahoma, stated he is the property owner. He pointed out they built as close to the highway as possible and it still obstructs the visibility of the hotel. He stated that the sign is the only way they have to call attention to their hotel, except for a billboard in the Grand National Trailer Repair lot, a mile from the hotel.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (Dunham, Stephens, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Variance** of maximum sign height of 50 ft. in an IL district to permit a 100 ft. sign along I-44 (Section 1221.E.1), finding it would cause substantial detriment to the public good or impair the purpose, spirit and intent of the code or Comprehensive Plan, on the following described property:

LT 1 BLK 1, BOGART CENTER, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20123

Action Requested:

Variance to permit a V shaped ground sign where the angle of separation of the display surfaces exceeds 30 degrees (Section 1221.D.4); and a Variance of the

pole sign height from 40 ft. to 50 ft. (Section 1221.D.1), located: 2808 East 101st Street South.

Mr. Henke recused himself from Case No. 20123, out at 3:00 p.m.

Presentation:

Brian Ward, 9520 East 55th Place, stated he tried to comply with the height requirement. He was appealing to the turnpike traffic rather than the neighborhood. He submitted photographs (Exhibit E-1) to show the trees that obscure the visibility. He also called attention to the change in elevation. He stated the triangular shaped sign is for the purpose of visibility.

Mr. Henke returned at 3:02 p.m. and Mr. Dunham out at 3:02 p.m. The quorum was lost and the hearing recessed. Mr. Dunham returned at 3:03 p.m. and the hearing continued.

Comments and Questions:

Ms. Stead considered the triangular sign to be self-imposed. Mr. Ward stated the hardship is the curve in the turnpike.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stead**, the Board voted 3-0-1 (Dunham, Stephens, Stead "aye"; no "nays"; Henke "abstained"; no "absences") to **DENY** a **Variance** to permit a V shaped ground sign where the angle of separation of the display surfaces exceeds 30 degrees (Section 1221.D.4); and a **Variance** of the pole sign height from 40 ft. to 50 ft. (Section 1221.D.1), finding it would cause substantial detriment to the public good or impair the purpose, spirit and intent of the code or Comprehensive Plan; and lack of a hardship, on the following described property:

LT 1 LESS E75 THEREOF BLK 1, RETAIL CENTER II, STAR CENTER 4, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting was adjourned at 3:09 p.m.

Date approved: 10/11/2005


Chair

