

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 920
Tuesday, October 11, 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
Tidwell

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Alberty
Butler
Cuthbertson

**OTHERS
PRESENT**

Ackermann, Legal
Boulden, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Thursday, October 6, 2005, at 2:29 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**, withdrew his case.

Board Action:

No action required, regarding the following described property:

LT 3 BLK 5, RADIO HGTS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20131

Action Requested:

Variance to permit two dwellings on one lot of record on a temporary basis (Section 207), located: 6336 South Harvard.

Presentation:

The applicant, **Jerry Ledford**, has requested a continuance to the meeting on October, 25, 2005.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20131 to the meeting on October 25, 2005.

N255 SE NE SE NE SEC 5 18 13, 1.94ACS, COUNTRY CLUB SOUTH, SOUTHERN HILLS SECOND ADDN, 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"; Tidwell "abstained"; no "absences") to **APPROVE** the Minutes of September 27, 2005 (No. 919).

NEW APPLICATIONS

Case No. 20100

Action Requested:

Special exception to allow a 100 ft monopole telecommunication tower in an RS-1 district (Section 401), located: 2800 E. 41st St. S.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, stated he was representing Cingular Communications. They proposed to place a 100' monopole tower at Edison High School, on their 40 acre campus. He submitted photographs (Exhibit A-4). Mr. Norman stated the tower would be more than 300 feet from any residential structure in every direction. He pointed out the surrounding ball fields, residential neighborhoods and major streets. He called their attention to the rolling hills and heavily treed portions of the area. The tower would be located behind high walls of the school, including the gymnasium. He indicated the design would have room for

collocation. A site plan was provided (Exhibit A-1). There would be shielded lights pointed downward on the tower for the parking lot. There would be the standard utility cabinets at the base of the tower. It would be accessed through the parking lot. Mr. Norman provided maps (Exhibits A-2 and A-3) to compare the proposed service coverage and existing coverage, showing a significant need for the tower at this site. The school district and Cingular were in agreement that no landscaping was needed on this site, as it could provide an unwanted hiding place for someone with criminal intent. The site will be surrounded by a six-foot high screening fence and barbed wire one foot above the fence. The steps to climb the tower are removable and are not left out when not in use.

Comments and Questions:

Mr. Norman responded to questions from the Board. He assured the Board the total area is paved, including access and the gravel drive on the plans is an error. He stated there is another communication tower the Webster High School. He indicated the applicant could provide a different color for the tower if it were required. He replied that the tower could possibly be disguised as a flag pole, but thought it would require the base to have a larger diameter. This tower would be designed to the same standards for strength against high wind velocity as the flag pole used in Southern Hills Country Club. He pointed out that the base of the tower is hidden except to the east and the terrain drops off significantly, so it is not very visible. He and the school had agreed that because of this location landscaping and any added façade treatment was not necessary. He pointed out that chain link fences were all that protect the school structures. The height of the proposed lighting on the tower was intended to help with the security issue and it would replace several of the existing pole lights. He stated that protection of the sight while in construction had not been discussed. He added that it takes about two weeks to erect the tower and prepare the base. He assumed that the school district has considered the safety of the students regarding the tower. The plans were to place three antennas at about a 120° arrangement. He did not know how many antennas could be added to this pole. Mr. Norman stated that Cingular is collocated on a tower at 32nd and Harvard and they have a facility on Peoria but there are still large gaps in this area. They also have an antenna on a building roof on the south side of Skelly Drive. He was not aware of any other towers for this area except the one at 36th and Lewis. He stated that anything along Harvard or Peoria would be closer to residential areas than this site because of the size of the campus. He informed the Board the lease term is for fifteen years.

Les Pace, 3027 South New Haven, a representative of the school district informed the Board that the grassy area near the tower would also be a paved parking lot in the coming year. He stated that they want the area as visible as possible for security personnel. The vandalism they have had was gunshots to the windows coming from 41st Street. He stated they have not had any trouble with the tower at Webster High School. He added that the tower would be shorter than any light pole at any stadium.

Interested Parties:

Mark Dryer, 4445 South Evanston Avenue, stated concerns for the height of the tower and the lighting on the tower.

Dorothy Owen-Burgess, 4247 South Columbia Place, to the west of the subject property, expressed concern about more antennas being placed on the tower. She was concerned about losing view of the wide open campus. She was also concerned about this setting a precedent for more towers at schools. She approved of the type of lighting proposed for the tower.

Applicant's Rebuttal:

Mr. Norman noted that notices went out to property owners within 300 ft. of the boundaries of the forty acres. The applicant has no objection to a stipulation that no more lights or antennas be added to the tower except by Board approval. He reminded the Board of Section 1204.C.3.d of the zoning code that allows for light fixtures used to illuminate ball fields, parking lots or similar areas to be attached to the tower. The lighting was added at the request of the school system.

The Board discussed the issues of camouflaging the tower and utility cabinets with paint and/or brick, using more commercial locations and landscaping.

Board Action:

On **Motion of Stephens**, the Board voted 3-2-0 (Dunham, Stephens, Tidwell "aye"; Henke, Stead "nay"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow a 100 ft monopole telecommunication tower in an RS-1 district (Section 401), having considered the factors for granting a special exception: finding that it meets the requirements for height; proximity to residential structures; residential boundaries and existing towers; nature of uses of adjacent and nearby properties; surrounding topography; surrounding tree coverage and foliage; design of the tower, with particular reference to the effect of reducing or eliminating visual obtrusiveness; the number and size of antennas and ability to accommodate collocation; architectural design of utility buildings and accessory structures to blend with the surrounding environment, with a condition for a brick facing on utility buildings; proposed ingress and egress and stipulate it be paved; the need for the service as demonstrated; and the size of the tract (37 acres) and most likely future development, and approval of the lighting per the plan at 60 ft. in height, finding these factors shall be made on the record and contained in the written minutes of this meeting, 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:

NW NE SEC 29-19-13

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Case No. 20104

Action Requested:

Modification of site plan approved in Case No. 13184 to permit 10 ft separation between mobile homes and a Variance to permit parking space widths of 8 ft (Section 1303) in an existing mobile home park, located: 5311 East Archer Street North.

Presentation:

Roy D. Johnsen, 201 West 5th Street, Suite 501, represented the owners of Darlington Place, mobile home community. The ten acre tract was developed as a mobile home park in the 1950's. It was zoned IL. The code was changed in the 1970's. The western half was renovated and that is the actual subject property of this application. The original approval was per plot plan. The code requires a ten foot separation. Each lot on this property has two parking spaces side by side, a total of 16 feet and this has worked well for many years.

Interested Parties:

There were no interested parties who wished to speak.

Comments and Questions:

Mr. Johnsen verified to Mr. Dunham that this case is only for the west half of the property.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVED** the Modification of site plan approved in Case No. 13184 to permit 10 ft separation between mobile homes, finding in granting an exception to modify the plan, 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; and a Variance to permit parking space widths of 8 ft (Section 1303) in an existing mobile home park, covering the west half of said park, finding the park has been in existence since well before current codes; and such extraordinary exceptional conditions or circumstances do not apply generally to other property in the same use district; finding it will not 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:

SW SE SW LESS W30 THEREOF FOR RD SEC 34 20 13 9.55ACS, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 20124

Action Requested:

Approval of an amendment to a previously approved plot plan (BOA-16712) to add an addition to the existing office building, located: 12752 East 49th Street South.

Presentation:

Jim Schwerts, 3605 North Narcissus, stated they have met the requirements for the application. A site plan was provided (Exhibit C-1).

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

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Henke**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** an amendment to a previously approved plot plan (BOA-17024) to add an addition to the existing office building, finding the plan is in keeping with the previously approved site plan for minimum storage, per plan, and the proposed changes would not be detrimental to the surrounding neighborhood, and on the following described property:

ALL LTS 6 THRU 9 & LT 10 & W121.03 LT 1 LESS BEG SWC LT 10 TH N40 E271.03 S190 W121.03 SWC LT 1 N150 W150 POB BLK 1, PARK PLAZA SQUARE, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Stephens returned at 2:23 p.m.

Case No. 20125

Action Requested:

Minor variance of the required rear yard setback from 20 feet to 16 feet for addition to garage in an R zoned district - (Section 403); located: 1648 East 44th Street South.

Ms. Stead noted this is a minor variance and yet they need to have a hardship. Mr. Cuthbertson replied that a minor variance is considered one most likely to be approved and to expedite them, nevertheless they require a hardship.

Mr. Tidwell recused himself and left the room at 2:25p.m.

Presentation:

Steve Olsen, 324 East 3rd Street, stated he was the architect for this project. The existing house was to be razed and a new structure built. The existing house was approximately 17 1/2 feet off the property line. They were asking for about 1 1/2 feet from that. He was informed that a minor variance was within 20% of the required setback. The applicant was going to designate South Utica for the front yard.

Comments and Questions:

Ms. Stead asked for the hardship. Mr. Olsen replied they are building a mother-in-law suite and a three-car garage. Ms. Stead noted the lot was 14,000 square feet and asked if this was not self-imposed.

Interested Parties:

Mike Schooling, 1622 East 45th Street, stated the restrictive covenants are for single-story houses in Forest Grove. Mr. Dunham informed him the Board cannot consider restrictive covenants. He added that the neighborhood could notify the applicant.

Applicant's Rebuttal:

He stated the applicant would accept the existing setback if the Board would allow.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-1 (Dunham, Stephens, Henke, Stead, "aye"; no "nays"; Tidwell "abstained"; no "absences") to **DENY** a **Minor Variance** of the required rear yard setback from 20 feet to 16 feet for addition to garage in an R zoned district - (Section 403), finding a lack of hardship, on the following described property:

LT 11 BLK 2, FOREST GROVE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20126

Action Requested:

Special exception to allow an automobile wash (Use Unit 17) in a CS zoned district (Section 701), located: 1724 South Harvard.

Presentation:

Melinda Johnson-Ryan, 16 North Park, Sapulpa, Oklahoma, represented Mr. Les Gregg. She submitted photographs of the site (Exhibit D-1). A True Value Hardware Store was located here. The applicant proposed to open a carwash. She pointed out the surrounding neighbors are a school across the street, a church and parking lot on one side, and other side a parking lot and pizza delivery site. She added there are numerous vacancies in the area. Ms. Ryan described the aesthetics of the proposed carwash with six bays covered with ceramic tiles, and an office on the end. The vacuums would be to the front. The two existing

entrances would be on Harvard and remain the same. There would be new landscaping. She indicated it would be safer and more attractive.

Comments and Questions:

Mr. Dunham asked her to address his concerns. He stated that the school crossing guard assists children across the street in front of the subject site. He asked if the applicant had talked with the neighborhood behind the property. She did not think the traffic would be a problem for the crossing guard. Mr. Henke stated it is inappropriate to the character of the neighborhood. Ms. Ryan stated the carwash would be manned from 7:00 a.m. to 9:00 p.m. Mr. Stephens suggested that a 17,000 square foot lot is small for a carwash.

Les Gregg, 13499 South 49th West Avenue, Sapulpa, Oklahoma, stated the crossing guard is only there a short time. He observed one day and concluded there was no more traffic than for any other business. Ms. Ryan mentioned the internal exhaust design, which decreases the noise significantly. She added they will also have fencing to decrease the light and noise pollution.

Interested Parties:

There were no interested parties who wished to speak. A list was provided for signatures of interested parties in opposition (Exhibit D-2).

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Special Exception** to allow an automobile wash (Use Unit 17) in a CS zoned district (Section 701), finding it would not be in harmony with the spirit and intent of the code and would be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

LTS 6 7 & N30 LT 8 BLK 1, EXPOSITION HGTS SECOND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20127

Action Requested:

Special Exception to permit (UU 12a) on a lot within 150 ft. of an R district (Sec 701); Variance of the spacing reqmnt of 300 ft. from another UU 12a use (Sec 1212a.C.3.c); Variance of the required parking for a retail center from 201 spaces to 156 (Section 1212a.D) to permit a billiard hall, located: 3151 South 129th Avenue East.

Mr. Henke out at 3:02 p.m.

Presentation:

Men Chee, represented the applicant, **Eun Hee Lee**, as she does not speak English. He was not sure how to explain the case.

Mr. Henke returned at 3:04 p.m.

Comments and Questions

Mr. Dunham explained to Mr. Chee the need for a hardship to have this Use Unit 12a less than the required 300 ft. of another Use Unit 12a establishment. Mr. Chee responded that Ms. Lee was willing to accept the Board's decision. Mr. Dunham informed them that the Board is in favor of business, but they had to find a hardship or it can cause problems for the neighborhood. He explained that they could run the billiard parlor but not serve alcoholic beverages. It appeared that the parking needs were covered in a previous hearing.

Interested Parties:

Charles Davis, 12935 East 31st, previously sent a letter of opposition (Exhibit E-1). He stated it would cause clustering and a concentration of activity.

Councilor Jim Mautino, 14628 East 12th Street, stated opposition to this case.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Special Exception** to permit (UU 12a) on a lot within 150 ft. of an R district (Sec 701); **Variance** of the spacing reqmnt of 300 ft. from another UU 12a use (Sec 1212a.C.3.c); **Variance** of the required parking for a retail center from 201 spaces to 156 (Section 1212a.D) to permit a billiard hall, finding a lack of hardship; and finding a lack of proper distance between adult entertainment facilities, on the following described property:

PRT LT 1 BLK 1 & PRT LT 1 BLK 2 BEG 100N NWC BRIARGLEN MINI STORAGE TH N225 E525 S5 W35 CRV LF 39.27 S85.78 SW154.47 W355 POB LESS BEG 25S MOST W NWC, BRIARGLEN MINI STORAGE RESUB L1B1 & L1B2 BRIARGLEN PLAZA ADD, BRIARGLEN PLAZA ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20128

Action Requested:

Special Exception to permit an Auto Wash facility (Use Unit 17 - Automotive and Allied Activities) in a CS zoned district, located: North of the Northeast Corner 71st and South Peoria.

Presentation:

Jim Beach, 111 South Elgin, with Sack and Associates, stated that in 1990 a valet style carwash was approved for the subject property. The plans included gas pumps, and some detail work. The project was never constructed and the special exception expired. This applicant was asking for a less intense plan to be approved. They relocated the entry to the property south of the cul-de-sac from the mutual access easement and drive on the west boundary of the property. This would be a tunnel style carwash, with vacuum bays on the west and an exit to the north. There will not be any detailing or gasoline pumps. Attendants would be present during the hours of operation, 7:00 a.m. to 7:00 p.m., and seven days per week. They plan to do the landscaping required. A conceptual

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit an Auto Wash facility (Use Unit 17 - Automotive and Allied Activities) in a CS zoned district, 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, per conceptual plan, on the following described property:

PRT LT 2 BEG MOST NLY NEC TH S185.73 SW210.49 NW30.43 N193.93 TH ON CRV LF 87.90 E138.72 POB BLK 1, RIVER WOOD OFFICE PARK, RIVERBRIDGE CENTER, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20130

Action Requested:

Variance of the required minimum separation between outdoor advertising signs from 1,200 ft. to 770 ft. to permit the replacement of an existing outdoor advertising sign (Section 1221.F.2), located: 28 North Hudson Avenue.

Presentation:

R. L. Reynolds, 2727 East 21st Street, Suite 200, stated they proposed to relocate the sign further back from the highway and reduce the size. He submitted two photographs (Exhibits G-1, G-2) to illustrate the size and location of the existing sign and an enhanced picture to show the proposed reduction in size and location. The sign is being moved to modernize the sign and as a safety precaution to move it back and eliminate distraction. The hardship is the sign to the west of the subject sign was a monument sign not an outdoor advertising sign. It has since become an outdoor advertising sign.

Comments and Questions

Mr. Dunham noted the ordinance that requires a spacing requirement and requires that if the sign is moved it must be made to conform. Mr. Reynolds responded that they are not just asking to move the sign but they plan to substantially reduce the sign. Mr. Reynolds added that the change in the sign to their west was not of their making and it is a benefit to all to have the new sign further from the highway and reduced in size. Mr. Alberty stated that when the sign is moved that is what triggers the spacing requirement.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Variance** of the required minimum separation between outdoor advertising signs from 1,200 ft. to 770 ft. to permit the replacement of an existing outdoor advertising sign (Section 1221.F.2), finding a lack of hardship, on the following described property:

BEG 16.5S NEC LT 3 TH W196.49 TO EL SF RR SW530.9NE302.68 N343.46
POB SEC 3 19 13, GREENLAWN, City of Tulsa, Tulsa County, State of
Oklahoma

OTHER BUSINESS

Mr. Dunham appointed Jim Stevens to Vice-Chair following Mr. Paddock's resignation. Mr. Dunham welcomed the new member, Michael Tidwell, to the Board of Adjustment.

There being no further business, the meeting was adjourned at 3:40 p.m.

Date approved: October 25, 2005


Chair

