

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 921
Tuesday, October 25, 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
Tidwell

MEMBERS ABSENT

Stephens, Vice Chair

**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, October 20, 2005, at 1:34 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. 20133

Action Requested:

Special Exception to permit Use Unit 17 (Automotive and Allied Activities); automobile sales, in a CS zoned district; (Section 701), 12909 East 21st Street.

Presentation:

The applicant, **CStore Investors, LLC**, withdrew this application. Mr. Cuthbertson stated the staff recommendation to refund \$546.00 of the fees.

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** a Refund of \$546.00.

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

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MINUTES

On **MOTION** of **Stead**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** the Minutes of October 11, 2005 (No. 920).

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UNFINISHED BUSINESS

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.

The applicant was not present.

Mr. Dunham stated they would move this case down on the agenda.

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NEW APPLICATIONS

Case No. 20129

Action Requested:

Verification of the spacing requirement; No family day care home may be located on a lot within 300 ft. of another lot containing a family day care home if any boundary of said lots abut the same street. (Section 402.B.5.g), located: 1342 East 53rd Street North.

Presentation:

DeMarco Livingston, 1342 East 53rd Street North, was present for the hearing. He provided a letter (Exhibit A-1) stating compliance with the spacing requirement.

Comments and Questions:

Ms. Stead asked if they had the DHS certificate to which Mr. Livingston replied he had to do some other things before they obtained the certificate. Mr. Ackermann asked if they have made application to DHS for the license. He also asked if they will have the license before they apply for the Zoning Clearance Permit. Mr.

total size of classroom space. An amendment to the applicant's Exhibit-A was provided (Exhibit B-1).

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** a **Special Exception** to permit Use Unit 5 (Community Services & Similar Uses) in RM-2, RS-3, OL, & CH districts, 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 plan; a **Variance** of the maximum structure height from 35 ft. to 45 ft. for Collins Hall and 35 ft. to 60 ft. for the Case Athletic Complex Building in an R district; and a **Variance** of the minimum building setback of 25 feet from abutting properties located within an R district, to allow for the expansion of University of Tulsa facilities: Bayless Plaza, Collins Hall, & the Case Athletic Complex, finding by reason of extraordinary or exceptional conditions being the unique campus location in a residential district, that the literal enforcement of the code would result in an unnecessary hardship and that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted 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 AT PT" THAT IS INTRSECTN OF S EXTNSN OF W R-O-W LN OF VAC S GARY AV AND S LN OF SEC 5, T-19-N, R-13-E ; TH W ALNG S LN 1400 FT TO PT ON S EXT OF W R-O-W LN OF S EVANSTON AV; TH N ALNG SAID S EXT AND W R-O-W LN OF S EVANSTON AV AND A N EXT THEREOF 1410 FT TO PT ON S R-O-W LN OF VAC E 6TH ST S; TH E ALNG SAID S R-O-W LN 440 FT TO PT ON E R-O-W LN OF VAC S COLLEGE AV; TH S ALNG E R-O-W LN 720 FT TO PT ON S R-O-W LN OF E 8TH ST S; TH E ALNG SAID S R-O-W LN 960 FT TO PT ON W R-O-W LN OF VAC S GARY AV; TH S ON W R-O-W LN 690 FT TO "POB" OF SAID TRACT OF LAND, LESS AND EXCEPT LTS 2 AND 6 IN BLK 27 AND LTS 3 THROUGH 8 IN BLK 28, COLLEGE ADDN, VINE HAVEN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20134

Action Requested:

Special Exception to permit an office use in an RM-2 district (Section 401); and Variances: of required parking from 11 to 6 (Sec 1211.D); of screening requirements on the north, west, and south sides (Sec 1211.C/1303.E); and of the required parking lot setback from the centerline of an abutting street (1302.B), located: 1646 South Denver Avenue.

Presentation:

Dan Tanner, 5423 South Lewis, submitted a site plan and packet of exhibits (Exhibits C-1 and C-2). Mr. Dunham noted the Board received several letters in support of the application. Mr. Tanner informed the Board his client is currently renovating an old house on the subject property for office use. They were stopped by the city when completing the pavement for parking.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Special Exception** to permit an office use in an RM-2 district (Section 401); and **Variiances:** of required parking from 11 to 6 (Sec 1211.D); of screening requirements on the north, west, and south sides (Sec 1211.C/1303.E); and of the required parking lot setback from the centerline of an abutting street (1302.B), per plan, finding extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; and finding the Special Exception 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:

LT 12 BK 5, STONEBRAKER HGTS ADDN, City of Tulsa, Tulsa County,
State of Oklahoma

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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:

Roy Johnsen stated he would be representing his client if they proceeded with this case. He asked for a four week continuance.

Board Action:

On **Motion** of **Henke**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** Case No. 20131 to the meeting on November 22, 2005, regarding the following described property:

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

Case No. 20135

Action Requested:

Special Exception to permit a manufactured home in as RS-4 District (Section 401); and a Special Exception to allow the manufactured home permanently (Section 404.E.1), located: 2009 North Darlington Place.

Presentation:

Imogene Sanders, 3331 South 148th East Avenue, proposed to move a used manufactured home to the subject property for investment purposes. She responded to Mr. Dunham stating the driveway would be paved; the home would be skirted and placed on a permanent foundation.

Comments and Questions:

Ms. Sanders replied to Ms. Stead that they have had the two lots combined. She submitted a photograph and the lot combination document (Exhibits D-1 and D-2).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Special Exception** to permit a manufactured home in as RS-4 District (Section 401); and a **Special Exception** to allow the manufactured home (Section 404.E.1) for 25 years from October 25, 2005, with conditions: to set home on a permanent foundation with skirting, 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:

LT 17 BLK 23, LT 18 BLK 23, DAWSON AMD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20136

Action Requested:

Special Exception to permit a parking lot in an RM-2 district (Section 401); a Variance of the required setback for a parking lot in a RM-2 district from 55' to 30' (1302.B); and a Variance of required screening around the parking lot (Section 1303.E), located: 2644 East 7th Street.

Presentation:

Darin Ackerman, 6111 East 32nd Place, for College Hill Presbyterian Church, proposed to improve and expand a paved parking lot in place of the small existing parking lot on two lots to the west. The church owns the two lots. They plan to landscape the new lot and erect a screening fence between it and the residential properties. A site plan was provided (Exhibit E-1).

Comments and Questions:

Ms. Stead asked about a walk-through gate on the south property line. Mr. Ackerman responded there would not be a gate on the south. Mr. Dunham asked if they had considered a lot tie agreement. Mr. Ackerman discussed it with Dustin Wright in Neighborhood Inspections and concluded it was all church property and they would not have reason to separate their parking. Mr. Ackerman informed the Board that Bill Major with the church board was present and available for questions.

Interested Parties:

Elizabeth Downing, 2616 East 7th Street, stated her concern is storm water runoff. They already have problems with drainage across their property.

R.L. Stokes, 2641 East 8th Street, asked for the no parking signs to be replaced on 8th Street, which were previously removed. He stated there was a lot of on-street parking on Columbia on both sides of the street.

Paul Strokey, stated he owns the properties at 2635 and 2639 East 8th Street. He also expressed concern about storm water drainage. He was in favor of the parking lot that would eliminate most of the on-street parking.

Applicant's Rebuttal:

Mr. Ackerman replied there would be continuous curbing around the parking lot and sod area between the paving and the property line. The drainage plans have been reviewed and approved by the City of Tulsa. They do not object to the City replacing signage on the public streets to prohibit parking.

Bill Major, 3734 East 45th Place, stated the biggest changes along Columbia related to parking had to do with the development of Tulsa University and the tennis center. The church asked for on-street parking on Sundays only. Mr. Dunham encouraged Mr. Major if people were bused to the church that they park on the parking lot.

Comments and Questions:

Mr. Dunham and Ms. Stead were in agreement there should be a tie agreement. Mr. Cuthbertson suggested that in any neighborhood where residents feel there is a problem on the streets with obstruction of traffic flow, they can contact Public Works and/or the Fire Marshall.

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** a **Special Exception** to permit a parking lot in an RM-2 district (Section 401), finding the parking lot 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; a **Variance** of the required setback for a parking lot in a RM-2 district from 55' to 30' (1302.B); and a **Variance** of required screening on the north and east sides around the parking lot (Section 1303.E), finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, with conditions for a tie agreement of Lots 4 and 5 to Lot 6, per plan, which addresses the drainage, on the following described property:

LT 4 BLK 10 & LT 5 BLK 10, HIGHLANDS ADDN, City of Tulsa, Tulsa County,
State of Oklahoma

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Case No. 20137

Action Requested:

Variance of the required 75 foot setback from an R zoned district to 50 feet (Section 903), located: 5620 South Mingo Road.

Mr. Cuthbertson stated there were two letters of opposition (Exhibits F-4 and F-5).

Presentation:

Kenneth Schwab, 11006 East 51st Street, represented the property owners of, Fifty Stars. He submitted a site plan, packet of exhibits, and elevations (Exhibits F-1A, F-1, and F-2). He referred to a previous hearing on the subject property, March 23, 1999, Case No. 18350, the current owner asked for the seller to seek a variance and the Board approved it. That variance expired before it was acted upon and they are back to obtain the variance once again. They do not intend to change the plan along the rear of the property to the west.

Comments and Questions:

Mr. Dunham asked if they are going to pave that area or use it for parking or storage. Mr. Schwab replied they would not. He added that it would remain a green space. The trees along the rear property line would remain in place.

Mr. Schwab continued, informing the Board that the applicant is a distributor. They have a delivery once in the morning and a shipment out once in the afternoon. He

stated that only five percent of the business is walk-in sales. They will not manufacture anything on the site.

Interested Parties:

Colton Miller, 5631 South 95th East Avenue, referred to his letter of opposition (Exhibit F-3). He noted that the nearby businesses are set back further. He stated the other properties were of smaller size. Once his questions were answered he was not in opposition.

Applicant's Rebuttal:

Mr. Schwab pointed out that the fifty feet to the west is green space and approximately fifteen to twenty feet on the south is green space. He responded to Mr. Dunham that the hours of operation are 8:00 a.m. to 5:30 p.m., Monday through Friday.

Comments and Questions:

Mr. Boulden asked if they will be distributors but not a retailer. Mr. Schwab replied they are 80% distributor/wholesaler and about 5% retailer.

Mr. Dunham acknowledged a speaker. **Charlotte Jones**, 3877 East 72nd Street, owner of the proposed business stated they have bids from public schools all over the United States and contracts with government agencies. The manufacturers do not sell direct but through distributors. They are the appointed distributor for seven manufacturing facilities. The flags are shipped to their warehouse and they make their sales by telephone, written sales or internet. They have a few customers that come to their site on any given day.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Variance** of the required 75 foot setback from an R zoned district to 50 feet (Section 903), per plan submitted, subject to: a 50' green space on the west side of the lot and extending across the entire lot, with no parking in said space; no outside storage of materials; no manufacturing on site; one-story building; days/hours of operation as stated are 8:00 a.m. to 5:30 p.m., Monday through Friday and no weekend hours, by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted 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:

LT 4 BLK 1, ANDERSEN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20138

Action Requested:

Variance of required frontage in a CS district from 150' to 38' on S. Garnett Rd. (Section 703) to permit a lot split. located: S & W of the SW/c of 41st St. & S Garnett Rd.

Presentation:

Roy D. Johnsen, 201 West 5th Street, Suite 501, represented 21st Properties, the owner of the property in question. The lot-split is proposed for IBC Bank and it would create a 38' access easement for this cluster of community development, including the bank. The 150' frontage requirement is intended to permit the City to control access onto arterial streets. The proposed lot-split would be in the spirit of that intention.

Comments and Questions:

Mr. Dunham asked why the 38' panhandle could not be tied to Tract B2 and provide a mutual access for Tract B1. Mr. Johnsen replied that the Bank did not want ownership with the liability, but they like the mutual access. Mr. Johnsen added they had no objection to the 38' strip not being considered a separate lot or a condition that a building not be located on that 38'.

Mr. Henke out at 2:25 p.m.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 3-0-1 (Dunham, Stead, Tidwell "aye"; no "nays"; Henke "abstained"; Stephens "absent") to **APPROVE** a **Variance** of required frontage in a CS district from 150' to 38' on S. Garnett Rd. (Section 703) to permit a lot-split, with conditions: the 38' is for access only and no building should be placed on the 38' strip, finding that by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted 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:

LT 2 LESS BEG MOST E NEC TH S215 W252.50 N197.50 W15 N17.5 E267.5
POB & LESS BEG NWC LT 2 TH E216 S268 W216 N268 POB BLK 1, 4100
GARNETT CENTER, City of Tulsa, Tulsa County, State of Oklahoma

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Mr. Henke returned at 2:34 p.m.

Case No. 20139

Action Requested:

Special exception to allow Use Unit 17 - Automotive and Allied Activities in a CS zoned district - Section 701, located: 6869 South Peoria Avenue.

Presentation:

Jim Beach, 111 South Elgin, with Sack and Associates, stated they propose to open a lube and oil change facility. He noted the surrounding uses are: a retail center on the north; an office building to the east; the intersection of Riverside Drive and Peoria to the west; and to the south is 71st Street and Luby's Cafeteria. The access would be from Peoria to the subject site. The conceptual plan provides for four bays. Mr. Beach also noted that similar use unit 17 (car wash) was just granted by this Board on property just across the access drive to the south.

Comments and Questions:

In response to questions, Mr. Beach stated there would be no auto body repair, car sales or related work conducted outside of the building, and no inoperable vehicles stored on the property. Ms. Stead asked what other kinds of business they could put in other than a lube and oil change. Mr. Beach suggested a tune-up shop or antique auto sales. Mr. Dunham reminded him that he said no auto repair or car sales. Mr. Ackermann added that with 3 bays a tune-up service would be allowed in the CS district as a use unit 14 by right.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 3-0-1 (Dunham, Stead, Tidwell "aye"; no "nays"; Henke "abstained"; Stephens "absent") to **APPROVE** a **Special Exception** to allow Use Unit 17 - Automotive and Allied Activities in a CS zoned district - Section 701, subject to: no outside storage of parts, materials or merchandise; no outside display or sales of merchandise; no outside repair, painting or maintenance; no inoperable vehicles to be stored on site; and limited to four bays, per conceptual site plan submitted this day, finding that the special exception 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:

BEG 645.84N & 50E SWC LT7 TH N150 E150 S150 W150 POB SEC 6 18 13
.516AC, RIVER WOOD OFFICE PARK, City of Tulsa, Tulsa County, State of
Oklahoma

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OTHER BUSINESS

Ms. Stead asked Mr. Cuthbertson to look into the possibility of having an applicant and/or owner requesting an exception for cell towers or antennas submit a statement before the hearing that they have complied and will continue to comply with the FCC RF emission standards regarding telecommunications towers. Mr. Ackermann responded that the zoning code states they have to comply with the FCC and FAA regulations. He added it sounds like she is asking for the Board to ask applicants to provide a letter with the application to the staff showing compliance with the zoning code as part of the record.

Mr. Cuthbertson announced that proposed zoning code modifications will be presented at the TMAPC work session on Wednesday, October 26, 2005. There are two sets of proposals. One set will go before the TMAPC soon and another set that will require some more work before they are ready for the TMAPC.

Mr. Ackermann stated that the TMAPC meeting starts at 1:30 p.m.

There being no further business, the meeting was adjourned at 2:54 p.m.

Date approved: 11/22/2005


Chair