

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 926  
Tuesday, January 24, 2006, 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

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Thursday, January 19, 2006, at 12:41p.m., as well as at the Office of INCOG, 201 W. 5<sup>th</sup> St., Suite 600.

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

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

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**REQUEST TO CONTINUE AND CASES TO WITHDRAW**

**Case No. 20183**

**Action Requested:**

Variance to permit 0 ft. of frontage on a public street - Section 206, located: 6331 W 29 St N Osage County.

**Presentation:**

The applicant, Joe Lowe, requested a continuance.

**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. 20183 to the meeting on February 14, 2006.

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**MINUTES**

On **MOTION** of **Stead**, the Board voted 5-0-0 (Dunham, Henke, Stead, Stephens, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of January 10, 2006 (No. 925).

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**NEW APPLICATIONS**

**Case No. 20171**

**Action Requested:**

Variance to permit one additional sign in the AG district (Section 302.B.2), located: 10901 South Yale Avenue East.

**Presentation:**

**Jim Beach**, 111 South Elgin, with Sack and Associates, sought an additional small sign for identification of a school within a church building. Mr. Beach explained that the existing sign is for the church and without another sign the school would be virtually invisible. The church and school on the property is a non-traditional use in an AG district. The hardship is that without the sign the school has no way to identify itself on this property. The church and school are not related in any way but a landlord/tenant relationship.

**Comments and Questions:**

Mr. Stephens asked about the sign size 18'w x 4'h. Mr. Beach responded that is the size, with individual letters applied to the surface of the sign, and a powder-cut metal water image beneath it. It is a two-sided sign with no lighting.

**Interested Parties:**

There were no interested parties who wished to speak.

**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 **APPROVE** a **Variance** to permit one additional sign in the AG district (Section 302.B.2), in accordance with the sign submitted, finding the hardship is by virtue of different uses in one building structure, the need for identification is apparent; and finding the conditions or circumstances which are peculiar to the structure involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions 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:

S75 N375 W580.8 SW SW LESS W33 THEREOF SEC 27 18 13 .94AC, PRT SW SW BEG 508.2E NWC SW SW TH E72.6 S300 W72.6 N300 POB SEC 27 18 13 .5AC, PRT SW SW BEG NWC SW SW TH E508.2 S300 W508.2 N300 POB LESS W33 THEREOF SEC 27 18 13 3.27AC

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Mr. Dunham asked Mr. Roy Johnsen to come before the Board regarding a possible continuation of Case No. 20195. Two letters were sent to the Board requesting a continuance because the interested parties had not been able to discuss the case with him before the meeting.

**Case No. 20195**

**Action Requested:**

Special Exception(s): to permit a drive-in bank facility in the OL district (Section 601), to permit multi-family residential use within the OM and OH districts (Section 601), and to permit required off-street parking to be located on a lot not containing the principal use (Section 1301.D); a Variance of the one story building height limitation in an OL district (Section 603); and a Variance of the requirement that multi-family use in the OM district comply with the bulk and area requirements of the RM-2 district (Section 604.B), located: SW/c S. Main St. and W. 21<sup>st</sup> St.

**Presentation:**

**Roy Johnsen**, 201 West 5<sup>th</sup> Street, Suite 501, stated they have always been open to discussing a case with neighborhoods. He was not authorized to agree to a continuance on part of the application. He pointed out the OL portion, which is the northwest corner of the subject property, and stated that everything west of it is right-of-way. It is part of Riverside Parkway and Boulder off-ramp right-of-way. The reason he could not agree to a continuance is that they are under contract on the OL portion and the request is to permit a drive-in bank and two-story height. The OM and OH are virtually unlimited to height; there is CH zoning across the street and 21<sup>st</sup> is a primary arterial street. The contractual arrangements require more eminent attention.

**Comments and Questions:**

Mr. Dunham noted that the requests for continuance were not timely requests.

**Interested Parties:**

**Monica Hamilton**, Director of the Mayor's Office for Neighborhoods, stated that her communication has been with a representative for Maple Ridge. She was not aware of any objections they simply wanted time to talk with the applicant. The Mayor was in support of the continuance if at all possible.

**Chip Adkins**, Swan Lake Neighborhood Board, requested the continuance also. He stated the plans were not available until the afternoon before the meeting. He

added that the Maple Ridge Board was meeting the night of this hearing, January 24, 2006 to discuss both items in this project. Ms. Stead asked if they had not seen the property being developed. He replied there have been several plans and this one is new.

**Susan McKee**, 1616 South Victor, President of the Coalition of Historic Neighborhoods, and they asked her to go to this meeting in support of the continuance.

**Comments and Questions:**

Mr. Dunham asked if the plans were not available until yesterday. Mr. Johnsen replied they filed a site plan with the application at INCOG about 45 days ago.

**Board Action:**

On **Motion of Henke**, the Board voted 4-1-0 (Dunham, Stephens, Henke, Stead "aye"; Tidwell "nay"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20195 to the meeting on February 14, 2006, on the following described property:

Lot 1, Block 2, The Tudors II, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20178**

**Action Requested:**

Appeal of determination of Neighborhood Inspector that a business is being conducted on the property, located: 3445 South 111<sup>th</sup> Avenue East.

**Presentation:**

Mr. Cuthbertson informed the Board that he received a verbal withdrawal of this case from Mr. Staggs and he asked the applicant to send something in writing. Staff did not receive anything in writing.

**Interested Parties:**

**David Gurthett**, 111 South Greenwood, Neighborhood Inspections, came to answer any questions. He stated the property has been cleaned up substantially in the last two to three weeks. Mr. Gurthett added that the evidence in photographs (Exhibit B-1) led them to believe that a construction business was being operated at this property in October 2005. The applicant then appealed the determination.

Discussion ensued.

**Board Action:**

On **Motion** of **Henke**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** the Appeal of determination of Neighborhood Inspector that a business is being conducted on the property, on the following described property:

LT 16 BLK 6, BRIARDALE, City of Tulsa, Tulsa County, State of Oklahoma

\* \* \* \* \*

**Case No. 20182**

**Action Requested:**

Appeal of the determination of a neighborhood inspector that the owner is operating a home occupation; variance to permit temporary parking on a non all-weather dust free surface in an RS-2 district (Section 1303.D), located: 930 South 129<sup>th</sup> Avenue East.

**Presentation:**

**Louis Levy**, 5314 South Yale, represented the applicants, Ollie and Zoe Acreman. He submitted photographs (Exhibit C-2) that were taken Thursday before this meeting. He stated that the Neighborhood Inspector came by some time last year and saw a red truck on this tract and other trucks and determined a business is being operated on this property. He informed the Board that no business has been conducted there since 1988. Mrs. Acreman's former husband purchased the property in 1953. He operated a truck repair shop on the property until he died in 1988. He represented Mr. Phillips around 1978 to obtain a non-conforming use. Mr. Acreman owns a dump truck, which he parks there. His son parks two trucks there also. Mr. Levy added that in the last four weeks Mr. Acreman has put down a dust-free asphalt on the property so they no longer park the vehicles on dirt.

**Comments and Questions:**

Ms. Stead and Mr. Dunham reviewed the property since Thursday and disagreed that it was a dust-free all-weather surface. Ms. Stead stated the loose cold graveled asphalt they brought in is not dust-free. Ms. Stead asked for the use of the dump truck. Mr. Levy responded that Mr. Acreman operates vehicles in his business. He receives orders from his full-time job. If he gets a call to use his dump truck, he drives it to the work site. Ms. Stead asked for Mr. Alberty's comments. Mr. Alberty stated the question he would raise is if this vehicle is customary to a residential use of the property.

**Zoe Acreman**, 930 South 129<sup>th</sup> East Avenue, stated her husband just parks there at night when he is not working. He works for APAC and goes to their building to wait for orders. His son also parks a dump truck and another one of his trucks on their property

**Interested Parties:**

**David Gurthett**, 111 South Greenwood, Neighborhood Inspections Supervisor, stated they received a complaint that a trucking business was being operated on this property. They inspected on October 21, 2005 and there were indications of inoperable semi-dump trucks, other vehicles, tires, rims, a ladder in front of one truck, and vehicle parts scattered about the property. It appeared there was a repair business for large trucks. A zoning notice and a notice to abate a nuisance for the debris were mailed November 5, 2005. It listed the home occupation guidelines and addressed the parking on a non-all-weather surface. There was also a yellow van parked on the grass. On November 17, 2005 Mrs. Acreman was trying to decide on storage of the large vehicles on the property. She was considering an appeal or a zoning change. Storage of the large vehicles is a Use Unit 23, which is not permitted in a residential area. Two large vehicles were missing parts and were inoperable. There were other vehicles parked there when the dump trucks were removed indicating a violation of home occupation guidelines.

**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 **DENY** an **Appeal** of the determination of a neighborhood inspector that the owner is operating a home occupation; and a **Variance** to permit temporary parking on a non all-weather dust free surface in an RS-2 district (Section 1303.D), on the following described property:

SE NE SE SE LESS N20 & LESS E50 S310 FOR ST SEC 519 14 1.992ACS,  
City of Tulsa, Tulsa County, State of Oklahoma

\* \* \* \* \*

**Case No. 20185**

**Action Requested:**

Special Exception to increase wall height in the front, side, and rear yards to permit an entrance gate and wall at the Estates of Waterstone (Section 210.B.3), located: East 115<sup>th</sup> Street West of South Louisville Place.

**Presentation:**

**Ricky Jones**, 5325 South Lewis Avenue, represented the applicant. He stated there is no gate involved in this project. The applicant was the developer on the Waterstone Estates (PUD 681) and Waterstone (PUD 667). They are served by private streets and were built as phase 1 and phase 2 of the same development. Waterstone is a gated community with gates and signage at the front. Waterstone Estates residents requested a wall or entry monument for their neighborhood. He stated the plans (Exhibits D-1) are for a wall with sign. The applicant also supplied other exhibits (Exhibit D-2). They have obtained the agreement and easements from the property owners. The wall would be 12' high. It is consistent with the adjacent neighborhood.

**Interested Parties:**

There were no interested parties who wished to speak.

**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** a **Special Exception** to increase wall height in the front, side, and rear yards to permit a wall at the Estates of Waterstone (Section 210.B.3), per plan, 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:

ESTATES OF WATERSTONE, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20186**

**Action Requested:**

Minor Variance of the required rear yard from 25' to 21' (Section 403), located: 4106 East 103<sup>rd</sup> Street South.

**Presentation:**

**Roger Coffey**, 324 East 3<sup>rd</sup> Street, with Olsen-Coffey Architects, represented Don and Betty Hoover. When they purchased the house there was a garden room added to the rear of the house. He submitted a survey (Exhibit E-1) of the property. The edge of the garden room was on the rear yard setback. It was heated and cooled with a window air conditioning unit. They propose to build a closet to enclose a central heat and air unit.

**Comments and Questions:**

Ms. Stead questioned if there was a house to the south. Mr. Coffey replied there is a house to the south but not easily seen because of the trees.

**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 **Minor Variance** of the required rear yard from 25' to 21' (Section 403), finding the literal enforcement of the terms of the code would result in an unnecessary hardship, and that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district; and finding it 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 1 BLK 5, FOREST OAKS, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20187**

**Action Requested:**

Variance of 75 ft setback from an abutting AG district (Section 903) , located: 3104 North Erie Avenue East.

**Presentation:**

**Chad Ebady-Nezami**, 708 West Oakland Street, Broken Arrow, Oklahoma, with AEI Engineering Co., Inc., represented Brooks Grease Service. They requested the 75' setback to construct a storage building. A site plan was provided (Exhibit F-1). There is an existing building on the southwest corner. To the south of the property is an animal shelter and to the west is an aircraft manufacturer. He stated both of those properties are zoned AG.

**Comments and Questions:**

Ms. Stead noted their plans to remove the manufactured home and asked how close to the fence they plan to build. Mr. Ebady replied it would be approximately 20' away. He stated they are building an additional 4,000 sf. of storage and the width is about 40'. They would not be building over utility easements.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **Motion** of **Henke**, the Board voted 5-0-0 (Dunham, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of 75 ft setback from an abutting AG district (Section 903), per plan, finding that such extraordinary exceptional conditions or circumstances are that the other abutting properties are not being used for AG purposes; these special conditions do not apply generally to other properties in the same use district; and finding it 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 1 BLK 1, BROOKS INDUSTRIAL TRACT, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20188**

**Action Requested:**

Special Exception to permit a community center (Use Unit 5) (Section 401); Variance of 35 ft building height to 45 ft (Section 403); and a Variance of structure



height to 50 ft for ropes course structures in an RM-1 district, located: 1006 North Quaker Avenue.

**Mr. Henke out at 2:01 p.m.**

**Presentation:**

**Bruce Rothell**, 220 East 8<sup>th</sup> Street, represented the Tulsa Public School Board, and proposed a ropes course on the subject property.

**Mr. Dunham out and Mr. Henke returned at 2:03 p.m.**

Mr. Rothell explained that the course promotes team building and confidence building. He provided a site plan and exhibits (Exhibits G-1 and G-2). He added that the property used to be a school but it has been closed for some time. The course would be available for schools and public use.

**Comments and Questions:**

Ms. Stead asked why the only access would be from the neighborhood rather than Peoria. Mr. Rothell replied they wanted to limit the access to keep people out that don't belong. She asked him about the fencing. He stated the fencing would be chain link or wrought iron style and eight feet high.

**Mr. Dunham returned at 2:05 p.m.**

**Greg Helms**, 329 South Elm Street, Jenks, Oklahoma, the architect, stated the topography changes about 10' from Peoria to Quaker Avenue. More of the land is at street level along Quaker for building the course. The fencing is set up to direct people through the building to gain entrance to the course structures. Ms. Stead stated the existing sidewalks are not adequate. Mr. Helms indicated many of them were replaced by the City of Tulsa, if not all of them. He stated the ones on the north have been recently upgraded. Mr. Cuthbertson noted sidewalks are shown around the entire perimeter.

**Comments and Questions:**

Mr. Ackermann informed the Board that the legal description provided by the applicant does not include the vacated street. Any relief approved by the Board at this time would not include the vacated street. To approve the special exception would not include the vacated street and would need to be a re-notice.

**Interested Parties:**

**Terry Knight**, 742 North Quincy, expressed concern that on the southeast corner there is a park where a lot of little children play. He indicated that added traffic here could cause traffic congestion.

**Bob LaBasse**, 3327 South New Haven, with the Tulsa Public School System, stated they have met with the President and residents of the Crutchfield Addition

and the Tulsa Parks Department regarding this project. He indicated they would bring in two to three buses at a time to the ropes course and park there until they picked up the children. It will be an improvement to the facility. The commercial neighbors have been supportive of the improvement in the neighborhood. It would be a daytime operation only. The security lighting would be directed down and only ten feet out from the fence. The use of the course would be by scheduled appointments only.

**Board Action:**

On **Motion** of **Henke**, 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 a community center (Use Unit 5) (Section 401), 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; a **Variance** of 35 ft building height to 45 ft (Section 403); and a **Variance** of structure height to 50 ft for ropes course structures in an RM-1 district, finding that by reason of extraordinary or exceptional conditions or circumstance, which are peculiar to this land, finding the literal enforcement of the terms of the code would result in an unnecessary hardship, and that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district; and finding it 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 an 8' fence for security, normal daytime hours of operation, security lights directed down and away from the neighborhood, per plan,

**And**, subject to a **CONTINUANCE** to the meeting on February 14, 2006 for a corrected legal description to include the vacated street, on the following described property:

ALL BLK 4, Capitol Hill Addn, LTS 14 THRU 37 BLK 5, CAPITOL HILL SECOND ADDN CORR, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20189**

**Action Requested:**

Variance of parking requirements from 118 to 86 spaces to permit an Adult Entertainment Establishment (bar) (Section 1212a); and a Verification of spacing requirements for an Adult Entertainment Establishment (Section 1212a.C.3), located: 6125-G South Sheridan Road East.

**Presentation:**

**Gerald DeVoy**, 324 South Main, Suite 900, attorney for the applicant, Plan 9 Bar, represented his client regarding this application. His client leased the bar side of the facility, which is now separated from the kitchen side by a fire wall. He indicated there would be no conflict for parking as the other businesses in the

complex will close at 5:00 p.m. The intent is for this to be an upscale sports bar and would expect business to pick up after 5:00 p.m.

**Comments and Questions:**

Mr. Dunham asked for the days and hours of operation. Mr. DeVoy indicated they would be open around 11:00 a.m. or noon to 1:00 or 2:00 a.m., six days per week and closed on Sunday.

**Interested Parties:**

**Rosie Moon**, 6601 East 60<sup>th</sup> Place, north and east of the subject property. She expressed concerns for the proximity to the Fish Bones bar and the Shadow Mountain Treatment Center. She mentioned the history of shootings, and other violent activity with other bars at this location. She also noted there are only two entrances and was concerned about the hospital emergency vehicles and heavy traffic.

Newspaper clippings of violence and crime in this area (Exhibit H-1) were provided.

**Marla Chism**, 6241 East 62<sup>nd</sup> Street, represented Seville Apartments in the RM-2 property across the street. They are opposed to the parking variance because of a negative history of inadequate parking at the other nearby bar. They have experienced parking overflow, vandalism, theft, accidental damages and violent confrontations, including threats to their staff and tenants by bar patrons that have parked in their private lot. They believe this request is unreasonable and will exacerbate the problem. Her business has put up gates, parking barricades, reflective signs and they knock the barricades down, deface the signs or drive across the lawn to enter their parking lot. These occurrences are usually at night time or on weekends but occasionally during special events these things occur during weekdays. Mr. Henke questioned that anyone would park that far away from the proposed business on the subject property. She assured him that they do.

**Robert Zelm**, 6100 South Sheridan, represented the Silver Flame. He opposed the application because there are businesses that use the parking, though not as heavily as late as eight or nine o'clock at night. They find trash and beer bottles on the Silver Flame parking lot from the Fish Bones bar. The bar patrons use his parking lot, the service station lot, the lube shop and the apartment complex.

Mr. Cuthbertson explained that the parking requirement for this bar is 42 spaces on the subject property. The applicant stated the shopping center has 87 spaces. The combination of the uses with the proposed bar, the total requirement would be 118 spaces.

**Mark McKinney**, 6241 East 62<sup>nd</sup> Street, questioned a reduction of a parking requirement for a bar when the requirement put in the zoning code for a reason.

The existing parking requirements are already inadequate and it will cause overflow.

**Robert Keenan**, 6669 East 60<sup>th</sup> Place, commented that the public school system sends teachers to the Shadow Mountain Institute. He informed the Board he has seen people drive on the wrong side of the road on the north side to enter the parking lot.

**Mike Kistler**, 6262 South Sheridan, with Shadow Mountain Behavioral Health System stated they have not had a problem with parking at either of their locations in this vicinity.

**Applicant's Rebuttal:**

Mr. DeVoy noted that the previous tenant had a dance floor indicating it would be different clientele for that business. He suggested that customers using the parking lot for other businesses would be rare after five o'clock.

**Allen Smith**, 216 East 13<sup>th</sup> Street, Sand Springs, Oklahoma, stated he is the owner of the establishment. He pointed out that most bars are not busy during the daytime, so the bulk of the business would be after 5:00 p.m. They would probably have two to three employees at a time. He pointed out that Fish Bones has a dance floor that brings in college students. He added that a sports bar would be much more sedate and not nearly as crowded.

Mr. Dunham stated he went by the property on Saturday afternoon and was surprised to see quite a few vehicles on the parking lot.

**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 parking requirements from 118 to 86 spaces to permit an Adult Entertainment Establishment (bar) (Section 1212a); and to **APPROVE** a Verification of spacing requirements for an Adult Entertainment Establishment (Section 1212a.C.3), on the following described property:

LTS 1 & 2 LESS W10 LT 2 & LESS N10 E5 LT 1 FOR STBLK 1, MSM CENTER RESUB L2 B1 GRAVATT-TABOR CTR, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20190**

**Action Requested:**

Variance(s) of the required setback from the centerline of: S. 102nd E. Ave. from 50 ft. to 48 ft.; E. 49th St. from 50 ft. to 47 ft.; and S. 103rd E. Ave. from 50 ft. to 49 ft. (Section 903), located: 10201 East 49<sup>th</sup> Street South.

**Mr. Stephens out at 2:49 p.m.**

**Presentation:**

**Charles Norman**, 2900 Mid-Continent Tower, represented the applicant. He stated this is an existing building that has been expanded four times since 1990. The building encroaches into the side yard by one foot and four inches on the west side and five inches on the east side. They requested three feet by seven feet to allow a vestibule to remain on the south. The relief on the south is not for the entire length of the building but only for the entrance way. A survey and photo were submitted (Exhibits I-1 and I-2).

**Interested Parties:**

There were no interested parties who wished to speak.

**Mr. Stephens returned at 2:53 p.m.**

**Board Action:**

On **Motion** of **Henke**, the Board voted 5-0-0 (Dunham, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE Variance(s)** of the required setback from the centerline of: S. 102nd E. Ave. from 50 ft. to 48 ft.; E. 49th St. from 50 ft. to 47 ft.; and S. 103rd E. Ave. from 50 ft. to 49 ft. (Section 903), to accommodate an existing building; finding the literal enforcement of the terms of the code would result in an unnecessary hardship, and that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district; and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, per survey, on the following described property:

LTS 1 THRU 12 & N10 VAC ALLEY ADJ ON S & LTS 13 THRU 24 & S10 VAC ALLEY ADJ ON N BLK 35, ALSUMA, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20191**

**Action Requested:**

Special Exception to permit a fence in the front yard to exceed the maximum of 4 ft to 6 ft in an RS-1 District, located: 3035 East 49<sup>th</sup> Street South.

**Presentation:**

**Ingrid Esberger**, 3035 East 49<sup>th</sup> Street, stated she and her husband purchased the subject property in October and moved in there. They wanted a fence for privacy and to keep their dogs in the yard. They checked the neighborhood and found many six-foot fences. They were not aware of the ordinance limiting fences to a four foot height. She added that they were trying to put in a good and attractive fence. Interstate Highway-44 is visible from their front porch and there

are highway projects planned for the highway in the near future. Ms. Esberger stated there has been an increase in crime in the neighborhood. They contacted the neighbors around them before they began construction of the fence and they did not object. She noted that when you look down 49<sup>th</sup> Street you can see commercial property with fences six and eight feet high. Photographs and a petition were provided (Exhibits J-1, J-2, J-3). They hired a company to construct the fence and nothing was said about a limited fence height in the front yard in the zoning code.

**Interested Parties:**

**Cynthia Kragthorpe**, 4510 South Birmingham Place, expressed support for the application. She described the fence as attractive and a need. She pointed out the need for security because of the crime, the proximity to the highway, commercial property and bars.

**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 a fence in the front yard to exceed the maximum of 4 ft to 6 ft in an RS-1 District , on the following described property:

LT 9 & E 15 LT 10 BLK 1, VILLA GROVE SUB, City of Tulsa, Tulsa County, State of Oklahoma

\* \* \* \* \*

**Case No. 20192**

**Action Requested:**

Variance of the minimum frontage required for an office use lot in an RM-2 district from 100 ft. to 60 ft. and a Variance of the minimum lot size for an office use lot in an RM-2 district from 12,000 sf. to 9,000 s.f. (Section 404.F), located: South side of 41<sup>st</sup> Street ¼ mile East of South Peoria.

**Presentation:**

**Charles Norman**, 2900 Mid-Continent Tower, stated the applicant changed the concept for the subject property. Originally the plat was approved for 42 townhouse lots, and curbs and drives were installed. A year and one-half ago the Board approved a site plan for construction of office buildings on individual lots that would have met the requirements for this use in an RM-2 district. He stated they were requesting the variances for individual ownership of smaller lots. The property would be platted with the center street, and driveways on the east and west sides as shown on the conceptual plan. See exhibits submitted by the applicant (Exhibits K-1, K-2, K-3, K-4).

**Comments and Questions:**

Mr. Dunham asked if this would increase the intensity or density of the development. Mr. Norman assured him that it would not. Mr. Stephens asked for

the hardship. Mr. Norman replied that it would be the imposition of the original requirement contemplating office use in an RM-2 district. It did not consider tracts of this size as divided into individual lots.

**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 **Variance** of the minimum frontage required for an office use lot in an RM-2 district from 100 ft. to 60 ft. and a **Variance** of the minimum lot size for an office use lot in an RM-2 district from 12,000 sf. to 9,000 s.f. (Section 404.F), finding the literal enforcement of the terms of the code would result in an unnecessary hardship, and that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district; finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, per conceptual plan submitted this day, on the following described property:

LT 1 BLK 1, BLK 1 & E25 VAC ROCKFORD AVE BTW S L E 41 ST & N L E 42 ST, BLK 2 & W25 VAC ROCKFORD AVE BTW S L E 41 ST & N L E 42 ST, DON-LEE, FORTY FIRST ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20194**

**Action Requested:**

Special Exception to permit a Residential Treatment Center (Use Unit 2) in an RM-2 district (Section 401); and a verification of spacing requirements that the proposed use is not located on a lot within .5 miles of a lot containing similar uses as described in (Section 1202.C.7), located: 1027 East 66<sup>th</sup> Place South.

**Presentation:**

**Mike Kistler**, 6262 South Sheridan, with Shadow Mountain Behavioral Health Systems, stated they currently have a program in Owasso and plan to relocate it to Tulsa to centralize their services. They have verified the spacing requirements.

**Comments and Questions:**

Ms. Stead asked if the residents were free to come and go. Mr. Kistler responded they do not have that freedom. There is staff on-duty at all times. She asked about the fencing. He stated they plan to fence the entire property with an attractive ornamental iron fence and gate. Ms. Stead and Mr. Dunham expressed their opinion that this is a good use for this property.

**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 a Residential Treatment Center (Use Unit 2) in an RM-2 district (Section 401); and a **Verification** of spacing requirements that the proposed use is not located on a lot within .5 miles of a lot containing similar uses as described in (Section 1202.C.7), 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 2 LESS BEG 348.80W & 26.40N SECR TH NW180.13 E62.72 S167.60 POB  
BLK 1, RIVERBANK PLAZA PRT REPLAT L1B2 CLINE ADDN, City of Tulsa,  
Tulsa County, State of Oklahoma

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There being no further business, the meeting was adjourned at 3:25 p.m.

Date approved: 2/17/2006 .

  
Chair