

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 930
Tuesday, March 28, 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**

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, March 23, 2006, at 2:56 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. 20224

Action Requested:

Special Exception to permit a children's nursery, Use Unit 5, in an IL zoned district. located: 4545 South Mingo Road.

Presentation:

The applicant, Alfonso Proo, withdrew his application. Staff recommended a partial refund of \$350.00.

Board Action:

On **Motion** of **Stevens**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a refund of \$350.00 per staff recommendation.

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Case No. 20229

Action Requested:

Variance of required 200 foot setback from an R zoned district for a new sign. Section 1221C.2 , located: 3126 South Harvard Avenue.

Presentation:

Mr. Cuthbertson informed the Board that the applicant requested a continuance to the meeting on April 11, 2006.

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 **CONTINUE** Case No. 20229 to the meeting on April 11, 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 March 14, 2006 (No. 929).

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UNFINISHED BUSINESS

Case No. 20196

Action Requested:

Variance of parking requirements (Section 1212.D), located: 3306 South Peoria.

Presentation:

James Andrews, 5908 South Birmingham Avenue, submitted a letter and photographs regarding the parking lease (Exhibits A-1 and A-2). The letter designated the lease of 30 parking spaces but did not identify the term of the lease.

Interested Parties:

Guy Diverges, 1343 East 35th Place, stated he is part of the Brookside Neighborhood Association, and a representative. He pointed out that the parking spaces that are to be leased are already being used. He referred to the 2004 Brookside Area Business District Parking Study, done by Walker Parking Consultants. He stated that it shows the parking in this area, on the weekends is over-allotted. Mr. Diverges concluded that by allowing parking variances, they are discouraging the future development of Brookside. He asked the Board to deny

this application. Mr. Henke asked for a copy of the item to which Mr. Diverges referred.

Comments and Questions:

Mr. Cuthbertson asked for the applicant to cite the document and section for the record. Mr. Diverges stated it is the Walker Parking Consultants' Parking Supply/Demand and Alternatives Analysis, June 4, 2004, Brookside Area Business District. It was prepared by the Tulsa Parking Authority, page 25.

Herb Beattie, 3474 South Zunis, stated he is the Co-President of Brookside Neighborhood Association. He informed the Board that what Mr. Diverges shared is the majority opinion but not the unanimous view of the association. He added that another entity besides the BOA needs to deal with the parking problem that exists in Brookside.

Applicant's Rebuttal:

Mr. Andrews reminded the interested parties that before they began this project, he had approached the neighborhood association with his plans and obtained a positive response. He added they plan to use signage for restricted parking. He believes the plans are a valid alternative. If they find that customers for other businesses are using it they would probably have to make it attended parking.

Comments and Questions:

In response to questions from the Board, Mr. Andrews stated the hours of operation would be Wednesday through Saturday 10:00 p.m. to 2:00 a.m., for the jazz club and the restaurant would serve Monday through Saturday from 5:00 p.m. to 10:00 p.m. The Board recommended tying the lease of the parking with the lease of the business. The restaurant occupies 3308 and 3310, and the club is at 3306.

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 **APPROVE** a Variance of parking requirements (Section 1212.D), subject to conditions: Ciao Restaurant (3308 and 3310) to close at 10:00 p.m.; the jazz club (3306) open Wednesday through Saturday 10:00 p.m. to 2:00 a.m.; applicant to return to the BOA in three years for review; and parking lease for 30 parking spaces with term of three years, finding that by reason of such extraordinary exceptional conditions or circumstances 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:

W115 LT 1 & PRT VAC ST BEG NWC LT 1 TH N20 E TO PT SW TO PT W115
POB BLK 5, BROOKSIDE ADDN AMD, City of Tulsa, Tulsa County, State of
Oklahoma

NEW APPLICATIONS

Case No. 20225

Action Requested:

Modification of a previously approved site plan, located: 6727 South Sheridan Road.

Presentation:

Roger Coffey, with Olsen-Coffey Architects, represented the Fellowship Lutheran Church. They proposed to add a portable building for classrooms. It is 24' x 72'. Mr. Dunham stated the Board received a letter of opposition with a petition from neighbors. They expressed concern that the building is a used trailer. He asked for a description of the building. Mr. Coffey offered to let Steve Camp, the business manager of the church, respond to Mr. Dunham.

Steve Camp, Parish Administrator of Fellowship Lutheran Church, 4117 South Birmingham, stated they plan to lease the building from G.E. Capitol. It will have a similar exterior of the church with a painted stucco type material. They proposed to use the building for three years.

Comments and Questions:

Ms. Stead commented that it was not a modular building as Mr. Camp indicated but a mobile trailer. She asked if they would be building an addition during that time. Mr. Camp replied there were no plans to build during that time, but they are discussing additions to the church. Mr. Stevens asked about the age group that will use the trailer. Mr. Camp responded that it will be adults.

Interested Parties:

Francie Bomer, 6718 East 66th Place, stated she is the President of the Park Plaza South Homeowners' Association. She informed the Board they actively participate in the improvements of their neighborhood. The property values in this neighborhood have increased 15% from 1999-2005. They consider this church a good neighbor but they are opposed to this application. She pointed out the trailer would be visible from neighboring homes and Sheridan Avenue. They were concerned that the site map did not give detail regarding access, drainage information, elevations, architectural appearance, or lighting plans. She submitted exhibits to the Board that included photographs (Exhibit B-1).

Bob Person, 6746 South 66th East Avenue, stated he has been a resident here for 30 years. They supported the original plan and the formal second addition to the

church because of the filing of the plan presented to them. This would not be in keeping with the agreements the church made with the neighborhood in the beginning of the whole church project. He pointed out that 100% of the property owners abutting the church are in opposition to the trailer. He was in opposition for similar reasons listed previously.

Gary Butler, 6707 South 72nd East Avenue, indicated it is a much larger building that demands more permanent plans. He added there are no trees to screen it and it would detract from a beautiful neighborhood. He asked the Board to deny this application.

Applicant's Rebuttal:

Jim Milton, 220 East 20th Street, stated he is an attorney, member of the church and a member of the church Board. He commented that he emailed Ms. Bomer, as the president of the association, about a meeting regarding this application, but they did not pursue a date and time with him. He did not receive any previous communication from the other interested parties. He informed the Board that one of the first things he did when he was put on the council, was to put shields on the church lighting to protect the neighborhood. He added they have not received many communications from the neighborhood. Mr. Milton stated the neighborhood association has not asked for details of their plans. He would welcome the opportunity to share their future building plans. The church approved the master plan but they have not completed it. The church is complying with the City requirements to construct a firewall. He informed the Board that the church chose to pay off debt and pay as they go to complete their plans. He added that they sought the architectural firm and have 3-D's, drawings and cost estimates already. They believe they can open the doors to a new addition in three years.

Comments and Questions:

Mr. Stevens asked why they proposed to place the building close to Sheridan Avenue. Mr. Milton replied that they use all of their parking space and with construction of the addition this is the only place where they could place it and leave it until it is removed from the property.

Mr. Coffey responded to the Board questions regarding the site plan. He stated the plan is on file at INCOG and is to scale. The long range plan is to build a fairly sizeable activity wing to the east of the existing building. Part of the reason not to place the temporary building on the east is they expect it to be a construction site within a year. Mr. Coffey observed that the church has made plenty of effort to communicate with the neighbors. He added this was the first he heard of any dissatisfaction. He had sent a copy of the plan to Ms. Bomer but he did not have any feedback from the association. He simply provided the footprint until they receive approval. Board members suggested the applicant needed to provide elevations, and photographs or sketches to show the neighborhood the expected appearance of the trailer.

Ms. Bomer stated the neighborhood never received the plans that the applicant sent. She suggested it would be better if the applicant present their proposals to the association board before they apply to the Board of Adjustment.

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** a Modification of a previously approved site plan, finding it incompatible with the neighborhood, on the following described property:

LT 14 BLK 12, PARK PLAZA SOUTH ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20226

Action Requested:

Modification of a previously approved plan to expand the existing facility, located: 17717 East Admiral Place.

Presentation:

Roger Eldredge, 2900 Mid-Continent Tower, for Aberdine Dynamics, requested to modify the plan to increase the building size another 16,800 square feet. A site plan was provided (Exhibit C-1).

Interested Parties:

There were no interested parties who wished to speak.

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 **APPROVE** the Modification of a previously approved plan to expand the existing facility, per plan, on the following described property:

LT 1 BLK 1, HALL BROTHERS SUB, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20227

Action Requested:

Variance of the requirement that illumination of a sign shall be by constant light (Section 402.B.4.b) to permit an LED message board, located: 12424 East 31st Street.

Presentation:

Justin Pancoast, 12424 East 31st Street, stated he is the Secretary and Treasurer for the St. Matthews United Methodist Church. They have to remove their sign for the widening of 31st Street in 2007. They proposed to replace it with a changeable message board sign. A site plan was provided (Exhibit D-1 and D-2).

Comments and Questions:

Mr. Dunham asked if it would be a constant light or changing message. Mr. Pancoast replied that it would have the options for constant message, scroll or flashing. They had not decided what option they would use. Mr. Dunham and Ms. Stead both stated they would not want them to use flashing lights, as it is a distraction to traffic. It would go up just east of the driveway when the old one is taken down.

Interested Parties:

Adrian Solas, 5807 South Louisville, stated he was there to get information, as he will soon need to do the same thing for his clinic when the road is widened.

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 of the requirement that illumination of a sign shall be by constant light (Section 402.B.4.b) to permit an LED message board, per plan, finding the reason of extraordinary, 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; 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:

BEG 1329.82W NEC NE PT BEING 10.64W NEC NE NW NE TH S633.06 W343.60 N634.88 E343.60 POB SEC 20 19 14 5ACS, WHISPERING MEADOWS, BRIARGLEN EAST PRT RES A BRIARGLEN EXT, BRIARGLEN MEADOWS, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20228

Action Requested:

Special Exception to allow sales of used automobiles and some light automotive repair on those vehicles that are for sale in a CS district; and a Variance to allow the display of merchandise for sale within 300 feet of a R zoned district, located: 231 South 49th West Avenue.

Presentation:

Akhtar Mamood, 4402 West Toledo Court, Broken Arrow, Oklahoma, proposed to open a used car lot. He planned to put up a fence to keep his cars safe and raise the value of the property.

Mr. Tidwell out at 2:35 p.m.

Ms. Stead asked if the overhead door is useable, to which Mr. Mamood replied that it is.

Interested Parties:

Pat Core, 310 South 47th West Avenue, noted it is a residential district. She commented there were junk cars and parts all over the property. She described the poor maintenance with broken windows, a dead dog on the property, a dog tied up in the building and trash all over the place. She did not consider a car lot as an improvement to the neighborhood.

Pat Hall, 4709 West 3rd Street, stated the lot was a salvage not a used car dealership.

Harry Jones, 315 South 48th West, spoke of the applicant as a good business man. He expected that Mr. Mamood would provide an established business that would be good for the neighborhood. He felt it would be a fast turn-over, low budget used car lot that would be helpful to people in the area.

Mr. Henke asked for a hardship. Mr. Mamood did not offer one.

Mr. Tidwell returned at 2:44 p.m.

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** a Special Exception to allow sales of used automobiles and some light automotive repair on those vehicles that are for sale in a CS district; and **DENY** a Variance to allow the display of merchandise for sale within 300 feet of a R zoned district, finding a lack of hardship and incompatibility with the neighborhood, on the following described property:

PRT NW SW BEG 465N & 50E SWC NW SW TH N148.05 NELY218.5
SELY160.06 SWLY283.35 POB LESS ELY60 THEREOF SEC 4 19 12 .78AC,
HAYDEN-LEWIS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20232

Action Requested:

Modify previously approved site plan and conditions established, and a Special Exception of the required .30 floor area ratio, located: 280 South Memorial Drive.

Presentation:

Lee Marlow, 700 South Chestnut Avenue, Broken Arrow, Oklahoma, represented Dove Science Academy. They proposed to add 20,000 square feet for classrooms.

Mr. Henke out at 2:46 p.m. and returned at 2:48 p.m.

Comments and Questions:

Ms. Stead asked about two large access gates to Memorial. Mr. Marlow responded that the gates would be open during the day and closed at night. She also noted some gaps in the fencing that need to be screened from the parking. Mr. Marlow stated there is an adverse possession action on Lot 20, where someone built over onto the subject property. He stated the residential properties along that section are 12' higher than the subject property. He informed the Board that on Tract 1 and 2 they plan to make a loop drive. Mr. Dunham asked if the plan submitted is the one they intend to use. Mr. Marlow replied that it is.

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 Modification of a previously approved site plan and conditions established, and a Special Exception of the required .30 floor area ratio, 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:

BEG 384.9N SECR NE TH W357 N100 E357 S100 POB LESS E35 FOR ST SEC 2 19 13 .739ACS, BEG SECR NE TH W357 N384.9 E357 S384.9 POB LESS E35 N94 & E50 S290.9 & S50 W307 FOR STS SEC 2 19 13 2.393ACS, TOMMY-LEE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting was adjourned at 2:53 p.m.

Date approved: April 11, 2006


Chair