

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 932  
Tuesday, April 25, 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  
Tidwell  
Stephens

**MEMBERS  
ABSENT**

**STAFF  
PRESENT**

Alberty  
Butler  
Cuthbertson

**OTHERS  
PRESENT**

Ackermann, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Thursday, April 20, 2006, at 3:11 p.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. 20250**

**Action Requested:**

Special exception to permit a beauty shop (U.U. 13) in an OL zoned district, located: 4130 South S Harvard Avenue.

**Presentation:**

Mr. Cuthbertson informed the Board that the applicant, Scot Andoe, has withdrawn this case.

LT 1 BLK 1, QUADRANGLE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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**UNFINISHED BUSINESS**

**Case No. 20230**

**Action Requested:**

Applicant request for a refund, located: 1601 East 36<sup>th</sup> Court South.

**Presentation:**

Mr. Cuthbertson reminded the Board that the applicant, Byrgen Finkleman was at the last Board meeting appealing the determination of the Administrative Official on permit #21444, for an accessory building.

**Comments and Questions:**

Mr. Henke commented that he recommended this refund at the last meeting, but after hearing the staff advice to the applicant and reading the staff comments he changed his mind. Ms. Stead questioned why this application was taken. Mr. Cuthbertson explained that the applicant had been instructed by the permit office and/or Neighborhood Inspections that if she wanted to take her objection further she could appeal to the Board of Adjustment. She attempted to appeal the building permit to the Board of Adjustment. Staff advised her that the permit was issued accurately and that the Board could not change the permit. She was advised by the staff that the BOA was not the appropriate venue but she insisted on filing the appeal. When someone insists on filing an application to the Board of Adjustment staff is obligated to take it.

**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** a refund, per the recommendation of the staff, on the following described property:

LOT 1 & 6 BLK 7, WOODLAND HGTS, City of Tulsa, Tulsa County, State of Oklahoma

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**NEW APPLICATIONS**

**Case No. 20243**

**Action Requested:**

Variance of the required rear yard from 25 ft. to 15 ft. to permit an expansion of the residence (Section 403), located: 7209 South Gary Place.

**Presentation:**

**Steve Schuller**, 1100 OneOk Plaza, represented Jan Johnson and the owners of the property, George and Dena Nowotny. This is a unit located in the Geyer Woods Condominium Complex. The RS-1 zoning requires that any yard abutting a

public street (arterial) must be measured 35' plus half of the right-of-way shown on the Major Street and Highway Plan, which means an 85' setback would be required. They are requesting a 65' setback. He pointed out the unusual size and shape of the property for an RS-1 zoning district. This was approved as a CDP (Community Development Project) No. 80, in 1970. The rear setback along Harvard was not addressed then. He pointed out the walls along Harvard Avenue and stated that the Board of Adjustment and the Planning Commission have approved reduced setbacks or rear yard setbacks. He noted the uniform boundary on the portion of Harvard with the walls. The Geyer Woods Home Owner's Association is in support of this application. Mr. Schuller stated that the literal enforcement of the zoning code would result in an unnecessary hardship. He added no purpose would be served by literally enforcing this restriction against the subject property. A site plan was provided (Exhibit A-1).

**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 of the required rear yard from 25 ft. to 15 ft. to permit an expansion of the residence (Section 403), finding the shallow depth and shape of the lot, and that the setbacks were not addressed in the original CDP in 1970; 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, per plan, on the following described property:

Lot 10, Block 1, GUIER WOODS ADDITION, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20244**

**Action Requested:**

Modify the previously approved condition from BOA-20022, pertaining to the statement "no fence to exceed 3' height along the arterial", located: 1431 North Harvard Avenue East.

**Presentation:**

The applicant was not present. The case was moved down the agenda and the applicant was contacted by staff.

S115.3 N471.2 W190 W/2 NW NW LESS W50 N100 S115.3THEREOF & LESS W40 S15.3 THEREOF FOR RD SEC 33 2013 .374ACS, HARRIS HGTS, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20245**

**Action Requested:**

Variance of OL sign standards to permit 1 wall sign and 1 monument sign; and a Variance to increase the total allowed sign display surface area from 40 ft to 89.6 ft., located: 8925 East 61<sup>st</sup> Street.

**Presentation:**

**Thomas Askew**, 502 West 6<sup>th</sup> Street, represented the applicant. He pointed out that the town homes and fence to the east obscure visibility of the subject property for west bound traffic.

**Comments and Questions:**

Mr. Dunham confirmed the relief sought is for the existing signs. Mr. Askew indicated that the property is burdened with a hardship that is not applicable to other properties in the same use district. Mr. Dunham asked if the other two tenants of the building plan to ask for signs for themselves. Mr. Askew responded that they are satisfied to use the unused space on the monument sign. That is why it was constructed to this size. Mr. Stephens asked if the PUD requirement requires the sign to face north-south. Mr. Askew replied in the affirmative.

**Interested Parties:**

**Dennis Wright**, 3704 East 99<sup>th</sup> Street, stated he is the owner of the building. He commented that the tenants on either side have temporary-type signs, which interferes with visibility also.

**Board Action:**

On **Motion** of **Stead**, to **DENY**, due to lack of hardships, failed for lack of a second.

On **Motion** of **Stephens**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of OL sign standards to permit 1 wall sign and 1 monument sign; and a Variance to increase the total allowed sign display surface area from 40 ft to 89.6 ft., 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 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 2 BLK 1, SUPERIOR FEDERAL BANK-EAST 61ST STREET BRANCH

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**Case No. 20244**

**Action Requested:**

Modify the previously approved condition from BOA-20022, pertaining to the statement "no fence to exceed 3' height along the arterial", located: 1431 North Harvard Avenue East.

**Presentation:**

**Hector Gutierrez**, 1434 North Harvard Avenue, proposed to keep a higher fence to prevent vandalism and theft. He stated his business has been broken into three times.

**Comments and Questions:**

Ms. Stead asked if they had removed the barbed wire to which he replied they removed some of it. She reminded him the Board specified removing all of it but Mr. Gutierrez indicated he did not understand it that way. Mr. Dunham asked about the screening fence he was supposed to put up to the north by the church. He said it should be completed the next day.

**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 **DENY** a modification of the previously approved condition from BOA-20022, pertaining to the statement "no fence to exceed 3' height along the arterial", on the following described property:

S115.3 N471.2 W190 W/2 NW NW LESS W50 N100 S115.3THEREOF & LESS W40 S15.3 THEREOF FOR RD SEC 33 2013 .374ACS, HARRIS HGTS, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20247**

**Action Requested:**

A Minor Special Exception to permit a 5 ft. encroachment into the required front yard to cover a porch, located: 2533 South Delaware Avenue East.

**Presentation:**

**Paul Collins**, 12026 South Oswego, stated he is the contractor and owner of the subject property. They proposed to cover the existing front porch.

**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 Special Exception to permit a 5 ft. encroachment into the required front yard to cover a porch, 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:

LOT-6-BLK-1, LOUISE ADDN OF L1 J P HARTERS SUB, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20248**

**Action Requested:**

Special Exception to allow a private school and church use in an AG district, located: 8621 South Memorial Drive.

**Presentation:**

**Darin Akerman**, 6111 East 32<sup>nd</sup> Place, Sizemore, Weisz, and Associates, represented Regents Preparatory School, a private K-8 Christian School. This site was the former Higher Dimensions Church site. There is no expansion planned. They planned to remove the trailers from the property and to make other improvements. A site plan was provided (Exhibit B-1).

**Comments and Questions:**

Ms. Stead asked about a temporary church sign. Mr. Akerman deferred to Mr. Shapley.

**Andy Shapley**, 3155 South Zunis, Headmaster of the school, stated the temporary sign was placed prior to their acquisition of the 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, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to allow a private school and church use in an AG district, per plan submitted this day, 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; and this Board determined not to address the billboard sign on the south of the following described property:

LT 1 AREA A BLK 1, LT 1 AREA B BLK 1, LT 1 AREA C BLK 1, LT 1 AREA D BLK 1, LT 1 AREA E BLK 1, LT 1 AREA F BLK 1, LT 1 AREA G RES A BLK 1, LT 1 AREA H BLK 1, HIGHER DIMENSIONS, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20249**

**Action Requested:**

Special Exception to permit Christmas tree sales in the CS, RM-2, RS-1, and OL districts; a Special Exception to permit alternative parking materials; a Variance of the 100 ft setback from the centerline of 41st St. for temporary buildings and outdoor sales; a Variance of the setback from an R district; and a Variance to allow building across lot line, located: SE/c of 41<sup>st</sup> St. & S Harvard.

**Presentation:**

**Roy Johnsen**, 201 West 4<sup>th</sup> Street, Suite 501, represented Mr. and Mrs. Manley, the owners of the subject property. Southwest Nursery has conducted Christmas Tree Sales on this lot since 1954. It has routinely been approved by the Board of Adjustment but ordinances have changed. In 1993 or 1994 Mr. Manley submitted a definitive set of standards for conducting this operation to the Board and it was approved. These were to make the operation more compatible with the neighborhood, including dates and hours of operation for sales, and loading and unloading trees. They covered the permanent points of access (approved by the COT). Lighting standards were imposed also. They have not had any complaints, of which they were aware; and proposed that the three-year time limit for relief be lifted, as the applicants have a long-standing history of doing business at this location. Mr. Johnsen asked for approval with the same standards as previously approved. A site plan was provided (Exhibit C-1).

**Comments and Questions:**

Ms. Stead asked for hardships for the variances. Mr. Johnsen responded that Christmas trees can be sold in all of those districts by a special exception. There are multiple zoning districts with different required setbacks. They have a good history of use on this property for over fifty years. The commercial lot is a logical location for commercial development. He stated the adjoining properties have never objected. The operation is seasonal by nature for a short period of time.

**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** a Special Exception to permit Christmas tree sales in the CS, RM-2, RS-1, and OL districts; a Special Exception to permit alternative parking materials; a Variance of the 100 ft

setback from the centerline of 41st St. for temporary buildings and outdoor sales; a Variance of the setback from an R district; and a Variance to allow building across lot line, finding by reason of extraordinary 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 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, subject to all previous conditions as listed in the staff comments (#1 – 10); in accordance with the site plan on file; and with permanent approval, on the following described property:

LTS 1 & 2 BLK 1, W.100 OF LT 25 W.100 OF LT 26, E. 100 LT 3 BLK 1, VILLA GROVE HGTS, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20251**

**Action Requested:**

Variance of the required front yard from 30 ft. to 22 ft., located: 2101 East 32<sup>nd</sup> Street South.

**Presentation:**

**Alan Madewell**, 5314 South Yale, licensed architect, represented the owners, John and Jennifer LaFortune. The variance is to add an open front porch, which would extend into the front yard setback. It is an early 1940's house built during the early part of the development. At that time it conformed to the setbacks for the development. Since then the existing zoning shows the house to be over the front yard setback. The new porch is five feet deep. The street has never been developed to be much wider than a standard street. Mr. Madewell stated it has a larger grassy area in front of the house than what may be implied by the front yard setback. Exhibits were provided including, a site plan (Exhibits D-1 through D-4).

**Comments and Questions:**

Ms. Stead asked for the hardship. Mr. Madewell replied that they are dealing with an existing building with a minimal five-foot porch. He added if this was a new zoning setback a five-foot porch would be a minor element. He indicated that the house to the east has a front porch that encroaches on the front yard setback also. He pointed out that the neighborhood has houses, which were built at different times and some of the streets are curbed, some are not. Therefore, it is hard to know where there are encroachments without a survey of each property.

**Interested Parties:**

**Robin Owens**, 2105 East 31<sup>st</sup> Place, stated she is one block north of the subject property. Her concern was that if this variance was approved, it may establish precedent for the neighborhood for similar requests in the future, and not everyone



would have the good taste to engage the services of Mr. Madewell. She indicated that the variety of the homes and properties is part of the appeal of the neighborhood.

**Applicant's Rebuttal:**

Mr. Madewell stated this is the only addition they would be doing outside the shell of the existing house. It is part of an overall facelift and complete remodel of the house. They felt this would give the house an appearance more conducive to the neighborhood. It would also provide more protection.

**Board Action:**

On **Motion** of **Stephens**, the Board voted 4-1-0 (Dunham, Stephens, Henke, Tidwell "aye"; Stead "nay"; no "abstentions"; no "absences") to **APPROVE** a Variance of the required front yard from 30 ft. to 22 ft., finding the property was built conforming prior to the zoning code being established; 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 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 plan, on the following described property:

LT 13 BLK 4, BREN-ROSE ADDN

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**OTHER BUSINESS**

**Case No. 20239**

**Action Requested:**

Request for Reconsideration of a Special Exception to allow a cell tower in an RS-3 district and a Special Exception of the required 110 percent distance from an R and O district, located: 1127 South Columbia.

**Presentation:**

**Louis Reynolds**, 2727 East 21<sup>st</sup> Street, Suite 200, asked the Board to reconsider this application based on a reduction of the tower height from 120 ft. to 100 ft.; placing the tower back toward the school; and enclosing the accessory equipment facility in brick that matches the school. The screening would be a nine-foot, brick wall enclosure. He added that the tower would remain capable of collocation and they plan to camouflage the antenna inside a flag pole. He mentioned there are nine cell towers along 11<sup>th</sup> Street between Memorial and Frankfort. Mr. Reynolds pointed out that none of them are camouflaged and many exceed 100 ft.

**Comments and Questions:**

Mr. Dunham asked if they could collocate on an existing tower. Mr. Reynolds replied that he had checked and found that they looked into collocating and were not able to find a tower suitable for their needs in this area. He explained that Wilson Middle School is in the middle of this service area. The six other Verizon sites that surround Wilson Middle School were collocated on existing structures or towers and thus they have no other place to go except this immediate area. He provided a map to indicate coverage in the area (Exhibit E-1) and other supporting exhibits (Exhibits E-2 through E-5). Mr. Reynolds showed they have collocated on existing structures six out of seven times to provide coverage in this area.

Ms. Stead asked if there is a technical reason that they continue to consider the north side of the property instead of a site behind the school to the south. Mr. Reynolds responded that he did not have that information but he would by the May 9<sup>th</sup> meeting. Mr. Henke asked that the applicant provide the letters from other cell tower companies that they do not have the space available for Verizon to collocate in this area.

**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 Reconsideration of a Special Exception to allow a cell tower in an RS-3 district and a Special Exception of the required 110 percent distance from an R and O district, on the following described property:

NE NE NW SEC 8 19 13, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20263**

**Action Requested:**

Request for a full refund, after staff advised it might be more appropriate to develop the site as part of a PUD.

**Presentation:**

Mr. Cuthbertson stated staff recommends a full refund.

**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 refund of \$781.00, on the following described property:

LTS 3 THRU 6 & E10 VAC ALLEY ADJ ON W BLK 18, ORCUTT ADDN, City of  
Tulsa, Tulsa County, State of Oklahoma

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There being no further business, the meeting was adjourned at 2:45 p.m.

Date approved: May 23, 2016.

  
Chair