

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 961
Tuesday, July 24, 2007, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

White
Henke, Chair
Stead, Vice Chair
Stephens
Tidwell, Secretary

**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, July 19, 2007, at 1:32 p.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

After declaring a quorum present, Chair Henke 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. 20535

Action Requested:

Variance of the 25 ft. rear yard requirement in an RS-2 district (Section 403) to permit an addition which utilizes the existing detached accessory building, located: 3311 South Zunis Avenue East.

Presentation:

Mr. Cuthbertson stated the applicant requested a continuance to August 14, 2007.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20535 to the meeting on August 14, 2007, on the following described property:

LT 9 LESS N70 & ALL LT 10 & LT 11 LESS BEG SWC THN98.3 SE38.20
E50.12 CRV LF 51.15 E25 EL S56 W150.6 POB BLK 9 , BREN-ROSE ADDN,
City of Tulsa, Tulsa County, State of Oklahoma

MINUTES

On **MOTION** of **Tidwell**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of June 26, 2007 (No. 959).

UNFINISHED BUSINESS

Case No. 20520

Action Requested:

Variance of the front yard requirement to permit residential expansion in an RS-1 district (Section 403); a Variance of the maximum permitted coverage for a driveway in the required front yard from 25% to 52% to permit a circular driveway, located: 3018 South Trenton Avenue East.

Presentation:

Brian Freese, 1634 South Boston, they have designed some improvements of a non-conforming structure. He submitted site plans, photographs and a rendering (Exhibits A-1, 2 and 3). The house was constructed in the 1940's before the zoning ordinances. They proposed a circle drive and small screening wall in front of the two-car garage. He stated the hardship was the construction prior to the zoning code and the pie-shaped configuration of the lot. They would improve the façade, with no additional heated or cooled square footage. They have not communicated with the neighbors regarding this application. They would modify the landscaping to 39% hardscaping in the front. The small area is at the front of the property. They would like to stay in character with the neighboring properties to the south, north and northeast.

Comments and Questions:

Ms. Stead asked the width of the drive in front of the house. Mr. Freese replied it was modifies to approximately 16 ft. to the left. Mr. Ackermann, responding to questions, stated that the plans examiner would require details to determine the location of the right-of-way, as it relates to planned improvements in the permitting process.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the front yard requirement to permit residential expansion in an RS-1 district (Section 403); a Variance of the maximum permitted coverage for a driveway in the required front yard from 25% to 39% to permit a circular driveway, with the conditions: per plan dated June 20, 2007 and submitted today; and for all driveway and driving surfaces to be constructed of hard surface material as defined in the zoning code; finding that these homes were constructed in the 1940's, and the pie-shaped configuration of the lot, which is an exceptional circumstance 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 the variances would not cause substantial detriment to the public good or impair the purpose, spirit and intent of the code or Comprehensive Plan, on the following described property:

PT EA LTS 8 & 9 BEG SWC LT 9 TH NW186.15 N28.5 E141.37 TO PT LT 8
S122 WLY82.6 TO BEG BLK 5, AVALON PLACE, City of Tulsa, Tulsa County,
State of Oklahoma

NEW APPLICATIONS

Case No. 20531

Action Requested:

Verification of the spacing requirement for a family day care home of 300 ft. from a lot containing another family day care home on the same street (Section 402.B.5), located: 1811 North Denver Avenue West.

Presentation:

DeVonne Willis, 1811 North Denver Avenue West, provided verification for the agenda packet.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Verification of the spacing requirement for a family day care home of 300 ft. from a lot containing another family day care home on the same street (Section 402.B.5), on the following described property:

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Case No. 20532

Action Requested:

Special Exception to permit a 10 ft. height extension of an existing 100 ft. communications tower in the RS-1 district. (Section 1204), located: 2800 East 41st Street.

Presentation:

Greg Ferris, 144 Bay Country Court, Wichita, Kansas, represented T-Mobile Central, LLC. They proposed to expand coverage by the ten foot height extension. He pointed out the area is heavily wooded with rolling hills and heavily residential. He stated it was difficult to find tall buildings their clients need, but there is an existing 100 ft. tower at Edison High School. The existing antennas are located slightly below the top of the tower. To collocate on the tower would place their antennas at 86 ft. instead of 90 or 92 ft. There are requirements for separation between antennas based on the RF frequencies. There is a need in this area for in-building services. They would cover the antennas with shrouds like the existing ones.

Comments and Questions:

Mr. Henke asked about his comment that T-Mobile could locate at a lower level on the tower. Mr. Ferris responded that physically they could locate antennas lower, but because the shrouds are longer they would have to locate even lower than the 10 ft. separation required. He added that because of the hilly, heavily wooded area 85 ft. or lower would not be high enough to give the additional coverage needed. They would still need another tower. Mr. White asked what percentage of coverage reduction would this cause.

Kevin Dowell, 618 North Badger, Piedmont, Oklahoma, RF Engineer for T-Mobile, stated with the terrain and trees it would reduce coverage about 25%. Mr. Henke asked for propagation maps that show this reduction. Mr. Dowell did not have the maps with him but he could provide them at a later time.

George Wyrick, 4533 Enterprise Drive, Oklahoma City, Oklahoma, with T-Mobile, stated the tower is owned by a company, TowerCo. T-Mobile plans are subject to the lease with TowerCo and they are limited to the ground lease with the school. The Board members determined that they would be interested in reviewing propagation maps based on the lower antenna elevations.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20532 to the meeting on August 14, 2007, on the following described property:

NW NE SEC 29-19-13, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20543

Action Requested:

Variance of the 25 ft. rear yard requirement (Section 403) to permit a covered porch, located: 1342 South 121st Avenue East.

Presentation:

Steve Adams, stated he is a lawyer representing Delaprop, Inc. He informed the Board that the violation of the 25 ft. setback was their mistake, based on a hydrology study that was in error. The study was approved by the City and they trusted that it was correct. He stated this was a hardship for the applicant. He introduced Buck Willis, the owner of Delaprop and Certified Public Accountant, to the Board. He submitted photographs of the property (Exhibit B-1). He stated that the neighbors next door on the porch side of the house are in support of the application. He stated that this relief would not cause any detriment to the surrounding community from drainage. He informed the Board they did not realize they needed to come before the Board or they would have much sooner. He added that to deny the variance would cause unnecessary hardship for the applicant.

Comments and Questions:

Ms. Stead asked for confirmation that the hydrology study indicated that the structure does not harm any other property by creating an excessive place to drain. Mr. Adams replied that she was correct. He added that the study contemplated this exact residence construction with the porch, which helped further solidify the soil in that area on the lot. Mr. Stephens asked for information on Delaprop. Mr. Adams stated that Delaprop is a residential construction company.

Patrick Boulden, 200 Civic Center, with the City Legal Department, stated the City of Tulsa is in litigation with the Wolf's and Delaprop, Inc. They entered into mediation. The City recognized they needed a variance to justify the porch at the back of the house. He informed the Board that the City of Tulsa has no objection to the variance. Mr. Boulden stated the City of Tulsa does not bind the Board's decision or demand a decision, but it will determine the course of litigation.

Mr. Adams stated they have not completed a final survey of the exact location. He asked if the Board proposed to grant approval of the variance, that they make it subject to a survey of the exact location.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the 25 ft. rear yard requirement (Section 403) to permit an existing covered porch, 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 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:

S87.7 E/2 LT 6 BLK 5, ELM HURST, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20533

Action Requested:

Variance to permit a fallout shelter in the required front yard. (Section 210.B.6), located: 5516 South New Haven Avenue East.

Presentation:

Robert Sprague, 5516 South New Haven Avenue East, stated there was a storm shelter under the garage when he purchased this home. He added that it is flooded, though he has tried to repair it several times. He explained what he wanted and obtained a permit and a contractor to build a storm shelter. He provided all of the information and asked numerous questions of the permit office to make sure he did everything correctly. He provided a plan (Exhibit C-2). He listed all of the obstructions in the rear yard, a utility easement; clothes line pole, fence, cement post, and cable. He did not know there were any restrictions on the location of the shelter. He indicated there was a neighbor down the street with a storm shelter in the front yard. He received a letter (Exhibit C-1) from the city revoking the permit for incorrect, inaccurate or incomplete information. He asked to be able to leave it there for two or three years until he moves.

Comments and Questions:

Mr. White noted the permit stipulated for a safe room. Mr. Sprague stated that Mr. Cuthbertson told him to ask the permit office to correct the permit, but they would not change it. Ms. Stead noted the Clearance Permit application shows clearly storm shelter.

Interested Parties:

Mary Diken, 5529 South New Haven, submitted a photograph, petition and a copy of the construction company web site (Exhibits C-3, 4 and 6). She objected to the shelter in the front yard. She stated it is unsightly and injurious to the neighborhood. She added that it is well illuminated at night and is clearly visible even from down the street. She read the petition letter to the Board. Mr. Stephens asked if they would be agreeable to the planting of holly bushes in front of the shelter. She did not think that would be enough screening and would require a lot of maintenance. She responded to a question from Mr. White that the neighbor down the street that was mentioned has a storm shelter in the side yard, not the front yard.

City Councilor John Eagelton, 5748 East 62nd Street, stated this shelter is inconsistent with the entire fabric of the neighborhood. He commented that because of the way it was constructed it gives differential lighting that makes it more visible than vertical walls. He indicated that a hedge would still not hide it and the treadle would be highly reflective when it moved in the wind. He objected to the application. He stated sympathy for the applicant, but someone needs to correct the mistake.

Emily Simms, 5511 South New Haven, commented that Mr. Sprague made the effort to do the right thing. She added that he has made an effort to screen the shelter with landscaping. She would not be opposed to landscaping to screen the shelter.

Linda Thompson, 6517 Timberlane Road, stated she owns two lots on 56th and South Quebec in this neighborhood. She noted it is one of the main streets for traffic through the neighborhood. She is opposed to the application for reasons stated by other interested parties.

Kirk Glasgow, 5802 South New Haven, opposed the application for reasons previously stated. He pointed out the security flood light in the front yard as it is very bright when it comes on.

Vanita Mattox, 5427 South New Haven, was opposed to the application.

Mr. Henke out at approximately 2:27 p.m. and returned at 2:29 p.m.

Barbara Jackson, 5509 South New Haven, expressed opposition to the application.

Photographs were provided (Exhibit C-5).

Applicant's Rebuttal:

Mr. Sprague stated the city made the mistake and should move the shelter for him.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a Variance to permit a fallout shelter in the required front yard (Section 210.B.6), finding a lack of hardship; it is not compatible with the neighborhood and would be harmful to the area, on the following described property:

LT 8 BLK 6, LOU NORTH WOODLAND ACRES 2ND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20534

Action Requested:

Special Exception to permit duplex use (Use Unit 7) in an RS-3 district. (Section 401), located: 1420 South College Avenue East.

Mr. Tidwell out at 2:40 p.m. and returned about 2:42 p.m.

Presentation:

Brad Dorsey, the applicant, was present. Mr. Henke noted a number of interested parties in opposition. He offered to give Mr. Dorsey and the interested parties an opportunity to go discuss the case and be heard later in the meeting.

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Case No. 20536

Action Requested:

Refund requested and
Modification of a previously approved site plan, located: 8145 East 17th Street.

Presentation:

Jim Graber, 2415 South Skelly Drive, Architect, Graber and Associates, stated they are doing some work for the YWCA. He stated the City informed them that the property to the west was residential and they applied for a zoning change, which they did not need. He added that is why they asked for a refund. They proposed to construct a building for parking their vans. The vans were damaged in the parking lot and they want to protect them. He stated they revised the plans to locate the building a little further from the property line, as advised by the City of Tulsa.

Comments and Questions:

Mr. Cuthbertson explained that the applicant did not ask for a zoning change, but a variance of the 25 ft. setback. The property to the west was not zoned residential so the applicant asked for a refund of the variance fees. Ms. Stead asked about the materials for the new building. Mr. Graber replied that it would be a metal building and the buildings will be the same color.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Modification of a previously approved site plan, per plan submitted today, and a refund of \$500.00, as recommended by staff, on the following described property:

LOT-3-BLK-1, S/2 LTS 1&2 BLK 4, JOHN CALVIN ADDN RESUB L4 B4
O'CONNOR PARK ADDN, O'CONNOR PARK, City of Tulsa, Tulsa County, State
of Oklahoma

Case No. 20537

Action Requested:

Special Exception to permit a single-family dwelling in CBD district, located: 305 South Kenosha.

Presentation:

Mr. Cuthbertson informed the Board the request is for a full refund. The property is in a CBD, and the applicant asked for relief to use a property for residential purposes. Someone used the property for residential use for a long time and already had the relief. He discovered it right away and did not do any work on the application. Staff recommended the full refund.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a full refund of \$542.00.

Case No. 20538

Action Requested:

Variance of the setback requirement for a building in the IL district of 75 ft. from an abutting AG district (Section 903), located: 12716 East Pine Street North.

Presentation:

Dwight Siens, 2109 South Missouri Place, Claremore, Oklahoma, Facilities Manager, stated the request for relief. He stated they have recovered the land previously used for lagoons. They proposed to construct a building there (Exhibit F-1).

Comments and Questions:

There was discussion regarding hard surface parking. Mr. Siens was agreeable to pave the area of gravel parking as a condition to the approval. Mr. Siens pointed out the utility easement and other limits to expansion on the property. Mr. Cuthbertson pointed out that they are proposing more building space, which would require parking. If they do not have the additional parking capacity on site, it will have to be constructed and paved. Ms. Stead added on Lot 1, Block 1. Mr. Ackermann commented that a machine shop would require one space per 750 sq. ft. He added that the plans examiners would review the parking provided on site. He would need a special exception if he had to provide required off-street parking on a lot not containing the principle use. Ms. Stead asked for the hardship. Mr. Siens replied that the hardship is that they have soil they cannot use. They need a building about 12,000 sq. ft. If they cannot build on this portion of the land it is going to be a problem to move materials between buildings for the machine shops. Mr. White noted that prior to the sanitary sewer they had to use the land for the lagoon system. He added they now have useable land. Mr. Cuthbertson commented that the intent of the zoning code is to protect AG property. He informed them that an equipment company owns the property to the south. They just laid sanitary sewer that would support industrial development, which is a use encouraged by the Comprehensive Plan. He stated there are plans for industrial development in that entire square mile.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the setback requirement for a building in the IL district of 75 ft. from an abutting AG district (Section 903), finding the previous area occupied by a lagoon has been reclaimed as buildable space; the greater area was an extraordinary and exceptional condition and circumstance peculiar to this land; and 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 the variance to be granted will not cause substantial detriment to the public good or impair the purpose, spirit and intent of the Code or the Comprehensive Plan, per plan, and subject to any additional parking required by this improvement must be provided on hard surface, as define in the zoning code, on the following described property:

LT 1 BLK 1, FLEMING ADDN AMD PRT RSB FLEMING ADD, City of Tulsa,
Tulsa County, State of Oklahoma

Case No. 20534

Action Requested:

Special Exception to permit duplex use (Use Unit 7) in an RS-3 district. (Section 401), located: 1420 South College Avenue East.

Presentation:

Brad Dorsey, 25577 Blackberry Boulevard, Claremore, Oklahoma, discussed the application with interested parties. He submitted an aerial photograph (Exhibit D-1). He stated that a duplex is in keeping with the neighborhood, which he pointed out on the aerial. The site plan was in the agenda packet. He described the duplex as a high-end structure with garages and other amenities. He added that it would be an improvement for the property and the neighborhood.

Comments and Questions:

Ms. Stead asked for the exterior materials. Mr. Dorsey replied it would be brick and siding.

Eulene Phillips, 25127 Stonebridge Parkway, Claremore, Oklahoma, stated up to the eight-foot plate line would be brick, in a color that conforms to the neighborhood. She added that above that would be smart siding, which is mold resistant. She explained that they thought it would look more like a home with the garage facing the front, less driveway and more rear yard to use.

Interested Parties:

Octavia Branch, 1427 South College Avenue, stated she and her husband live across the street. She stated the house has been vacant for a while. They were opposed to style as inconsistent with the character of the neighborhood. She stated most of the homes have parking in the back and long driveways. She was in favor of a single-family dwelling.

Matthew Branch, 1427 South College Avenue, stated he has noticed the duplexes in the area are not as well maintained. He added there are no two-story houses, except one with an addition, but the front appearance is one-level.

Fran Pace, 1326 South Florence Avenue, asked for more information from staff regarding relevant previous actions. She thought this design was good for crowded cities that do not have land, but there is plenty of land here. She commented there is no parking to accommodate this size structure and it would force them to park on the street. She considered this inappropriate for mid-town.

Applicant's Rebuttal:

Mr. Dorsey stated they will seek to un-split the lots, and the size of the structure does fit the lot, meeting the zoning code requirements. Mr. White asked the width of the driveway. Mr. Phillips replied the driveway is 26 ft. deep and 17 ft. wide with a four-foot wide green space.

Mr. Cuthbertson commented that this platted area has 25 ft. lots, so technically they do not have to split the lots. If they decide to sell them as separate units they would need relief from the five-foot side yard requirement for the interior lot line. There was discussion on the design, location more to the rear of the property.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit duplex use (Use Unit 7) in an RS-3 district (Section 401), subject to the submission of final plans to the Board of Adjustment at the meeting on August 14, 2007, 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:

LTS 10 & 11 BLK 7, ROSEMONT HGTS, City of Tulsa, Tulsa County, State of Oklahoma

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Mr. Tidwell out at 3:44 p.m.

Case No. 20539

Action Requested:

Appeal the determination of an administrative official denying a permit for a digital display billboard; or in the alternative a Variance of the requirement that Outdoor Advertising Signs shall be illuminated by constant light (Section 1221.F.14), located: 3003 Est 51st Street South.

Presentation:

William Hickman, 7777 East 38th Street, covered the history of the case beginning with an application August 1, 2006 for a sign permit. In December 2006 Lamar received a deficiency letter from the City regarding no flashing lights and constant illumination (Exhibit G-1). In March 2007 Lamar brought several cases to the Board. In May 2007 the City requested Lamar to submit additional information on this particular application. Lamar responded with a letter to the City (Exhibit G-2) addressing certain questions from the City. He read a portion of letter that referred to lighting and display of the digital sign.

Mr. Tidwell returned at 3:47 p.m.

He stated in June 2007 the City denied the application, to which they were appealing.

Mr. White out at 3:54 p.m.

Mr. Hickman commented on the term, flashing illumination. He stated it is not in the section of the zoning code used for a denial of the permit. He added that it was in the section for business signs not billboards. He also argued there is confusion over the definitions of constant illumination and animation. He provided a newspaper clip regarding the use of digital billboards in Oklahoma City (Exhibit G-3).

Mr. White returned at 3:56 p.m.

Mr. Tidwell out at 3:57 p.m.

Mr. Hickman stated the Administrative Official erroneously and inappropriately extracted a definition that has no application to billboard signs or outdoor advertising. He added that the official exceeded the scope of his duties and powers. Mr. Hickman proceeded to review a transcript of the sworn testimony of Jim Garriot, former Plans Examiner, for the permit application.

Comments and Questions:

Mr. Ackermann asked Mr. Hickman what he was trying to do, because it appeared the Board was not following this part of the presentation. Mr. Hickman wanted them to know what Mr. Garriott said, because he was no longer working for the City.

Mr. Tidwell returned at 4:02 p.m.

Mr. Henke interjected, indicating this was too much information to give the Board at the hearing without an opportunity to review it. He offered the applicant a continuance to a meeting at a future date. He stated the Board was willing to review the information for a future meeting but they could not assimilate it after three hours in this meeting. Mr. Henke added, in the alternative, they could hear the interested parties and give him five minutes to rebut and the Board would make a decision. Mr. Hickman stated they submitted the permit application in August 2006 and he would like a decision today. Mr. Henke stated they would like to make a decision today but the information he was giving dates back to last year. He asked him to submit all of this information for the Board to review and they can all know what he wants them to understand. Mr. Henke continued, stating this is a disservice to everyone involved, because it is very complex.

Ms. Stead remembered Lamar withdrew this application because it was in the planned right-of-way for I-44 Highway. Mr. Hickman replied they withdrew it because it might be in the potential take area of the I-44 expansion. She asked why they brought it back this time. He replied they want to install digital technology on this sign location. They do not know that the sign will be condemned and at this time it is not in the right-of-way. Mr. Alberty stated this location is within the proposed taking. He mentioned another issue that the Board has the right not to do anything that would enhance the value of that take, once it has been identified.

Interested Parties:

Bill Buffington, 2930 East 51st Street, with Heatherwood Apartments, stated Heatherwood is a haven for senior citizens. He informed the Board that he has talked with the Oklahoma Department of Transportation several times and found that location to be part of the take. He asked the Board to deny this application.

Applicant's Rebuttal:

Mr. Hickman understood the Board's need to review the information. He explained he was trying to be brief. He assured the Board he was not trying to enhance the value of the sign that may or may not be detrimental to the State of Oklahoma or the City of Tulsa, on the eve of condemnation. They have seen things change or a line moved and this site may not be taken. They did not want to lose the time for placement of the sign for an indefinite action by ODOT. Mr. Hickman stated he would be agreeable to a continuance.

Mr. Henke asked Mr. Hickman to give the Board all the information he wants to present in advance. Ms. Stead suggested he consider what the hardship is before the next hearing. Mr. Ackermann reminded the Board they will need to determine if the zoning official made the correct decision and then the variance.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20539 to the meeting on August 14, 2007, on the following described property:

PRT LTS 15 & 16 & RESERVED FOR PARK BEG NWC LT 15TH E550 S35
E163.08 SW184.82 W308.83 N95 W130 S50W119.11 NW117.98 N50 POB
LESS BEG 181.55 E & 60N S WC LT 15 TH W119.05 TH NW TO PT TH
E156.55 S60 POB BLK 2, VILLA GROVE SUB, City of Tulsa, Tulsa County,
State of Oklahoma

Case No. 20540

Action Requested:

Special Exception to permit a communications antenna and tower (Use Unit 4) in an RS-3 district. (Section 401), located: 3003 East 11th Street South.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, represented the University of Tulsa, for the beautification and enhancement of the campus. The renovation of the football stadium is to begin after the football season in November 2007. At this time they proposed to construct a monopole tower and relocate existing antennas for the two university radio stations and one existing cell antenna from the top of the stadium press box. They planned to relocate an on-campus low frequency radio system used by the staff of the university to this tower. Mr. Norman

submitted site plans and exhibits to show the Board the future stadium design and location for the tower (Exhibits H-1 and H-2).

The tower would be 169 ft. in height with cabinets located in the old stadium structure out of sight. He pointed out that the current press box is 95 ft., the antenna is at 112 ft. and the stadium lights are at 145 ft. They will lower the west stadium lights to 125 ft. Previously, the west light poles were 160 ft. The exhibits include a letter of the propagation and study of the area from the University to the southeast of Coweta for the radio stations. The distance is seventeen and one-half miles and there is a hill in Broken Arrow that is in line of the radio signals. The pole would be 36 in. in diameter at the base and 15 in. at the top. The pole is built to withstand 175 m.p.h. winds. There would be extensive landscaping. The pole would be the color of the stadium light poles. He stated the RF emissions are extremely low and far above the space inhabited by people. Ms. Stead asked for the copy of the RF approval letter, when they receive it. Mr. White wondered why there were not any interested parties in opposition, compared to a previous request in the same area. Mr. Norman suggested that there was better communication with the neighborhoods regarding this application. He pointed out the visual clutter by 90 ft. electric poles along 11th Street on the stadium side.

Comments and Questions:

Ms. Stead questioned the location site and the need for another pole of such height. Mr. Stephens asked about placing the antennas on the stadium light poles. Mr. Norman responded that the light poles are a different design and capability.

Dennis Whitaker, City of Tulsa, stated he works with the 2025 Route 66 Design Recommendation Committee. Ms. Stead asked him of his opinion on this tower. They recognized that revitalization of a historical asset and keeping it sustainable and vital into the future would have challenges. The consultants recommended that they give further study to infill development. He did not remember a specific recommendation regarding communications towers.

Mr. Norman commented that if there is any harm from a 169 ft. pole, why move it to the interior of the campus. They have worked hard to eliminate visual clutter on campus when it would not be noticeable in any way at this location. He stated this is the best location for the radio signals per the information provided. The topography and location of the reciprocal tower are conditions beyond their control. Ms. Stead asked if it is the opinion of the T.U. staff that this tower would allow collocation. He replied that according to Mr. Shipley collocation would not be permitted unless technological improvements permitted the equipment to be located out of sight in the old stadium structure. They will not permit visible 12 ft. x 14 ft. cabinetry. They are not trying to sell tower space to a communications company. Mr. Cuthbertson pointed out that the antenna on the plan would be at 120 ft. Mr. Norman responded that the one on the stadium is at 105 ft. Mr. Ackermann verified with Mr. Norman that the tower is for the radio stations and cellular communications. He replied it is and they have lost signal quality by

microwave transmission to the Coweta tower. Mr. Cuthbertson commented to the Board that the legal description on the notice covered the entire stadium area. This would allow the Board and applicant flexibility to locate the tower anywhere on the entire block area.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a communications antenna and tower (Use Unit 4) in an RS-3 district. (Section 401), with conditions for tower not to be higher than 169 ft.; no illumination of the tower except if required by the FAA; applicant will furnish a letter to INCOG staff stating that emissions comply with standards; per plan submitted; and that any collocation be attained with no cabinetry visible outside; finding it meets all of the criteria for height, proximity, etc., having reviewed all eleven factors required by the code; 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:

ALL BLKS 29 & 30 & VAC STS & ALLEYS BTW & VAC ST BEG NEC TH S660
E25 N660 W25 LESS BEG SECR BLK 29 TH W87.5 N10 E112.5 S8 W25 POB,
COLLEGE ADDN, VINE HAVEN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20541

Action Requested:

Variance of the 25 ft. setback requirement from abutting R districts (Section 404.F.4), located: 4804 South Fulton Avenue East.

Presentation:

Wally Wozencraft, 1619 South Boston, Wozencraft and Associates, Architects, for the proposed construction for Church of the Resurrection. He submitted a site plan and study plan (Exhibits I-1 and I-2). He stated they need space for expansion at the present location. He proposed to add a storage area 12.9 ft. from the west property line. He asked for a continuation of two previous BOA approvals to build in this variance.

Comments and Questions:

Ms. Stead asked for the owner of the board fence on the west. Mr. Wozencraft stated it belongs to the church. Mr. Stephens asked for the hardship. Mr. Wozencraft replied that it was the parking problem. He stated they could change the profile and extend the building to the east and comply with the 25 ft. restriction

in both the alignments. He commented that in so doing he would lose parking for funerals and other occasions.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the 25 ft. setback requirement from abutting R districts (Section 404.F.4), with condition for the church to maintain the west fence, per plan designated on page 14.6 of the agenda packet, finding to provide for additional teaching classroom space the variance is necessary and finding to build toward the east would put the applicant out of compliance with parking as the lot is too narrow; finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure and 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:

E352.12 S126 LT 10 & E352.12 N97.786 LT 11 BLK 1, ALLENS SUB, City of Tulsa, Tulsa County, State of Oklahoma

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There being no further business, the meeting adjourned at 5:23 p.m.

Date approved: 8-14-07

Clyde M. Stead
Chair

