

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 962
Tuesday, August 14, 2007, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

White
Stead, Vice Chair
Stephens
Tidwell, Secretary

**MEMBERS
ABSENT**

Henke, Chair

**STAFF
PRESENT**

Alberty
Butler
Cuthbertson

**OTHERS
PRESENT**

Ackermann, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Thursday, August 9, 2007, at 2:25 p.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

After declaring a quorum present, Vice-Chair Stead 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. 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:

Mr. Cuthbertson informed the Board the applicant apparently found a solution that did not require Board of Adjustment action. They withdrew the case.

Board Action:

No action was required on the following described property:

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

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 East 51st Street South.

Presentation:

Mr. Cuthbertson informed the Board the applicant made a timely request for continuation so they could develop input for the Board.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **CONTINUE** Case No. 20539 to the meeting on August 28, 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. 20546

Action Requested:

Appeal the determination of the Neighborhood Inspector that permits are required for construction on the accessory/ garage building and inspections are needed, located: 2209 South Yale Avenue East.

Presentation:

Mr. Cuthbertson stated he talked with the applicant today and decided the appeal was not the right course of action. They are going to apply for a permit. They asked to continue to August 28, 2007 to accomodate another request but not the appeal.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **CONTINUE** Case No. 20546 to the meeting on August 28, 2007, on the following described property:

LT 1 BLK 3, GRACEMONT 1ST ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20550

Action Requested:

Special Exception to permit a juvenile treatment center (Use Unit 2) until January 2008 and a women's transitional living center (Use Unit 2) thereafter; in an AG district; located: 1616 North Gilcrease Museum Road.

Presentation:

Mr. Cuthbertson stated this property historically accommodated this use. They are reactivating the use and it requires verification of spacing. It needs to be continued to add the verification

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **CONTINUE** Case No. 20550 to the meeting on August 28, 2007, on the following described property:

NE SE SEC 28 20 12, City of Tulsa, Osage County, State of Oklahoma

Case No. 20552

Action Requested:

Special Exception to permit a children's nursery in the RS-3 district (Section 401); and a Variance of the 25 ft. minimum building setback from abutting properties in an R district (Section 404.F.4), located: 2151 East 29th Street North.

Presentation:

Mr. Cuthbertson stated the applicant requested a continuance to August 28, 2007 to accommodate an additional element of relief that was not picked up in the first notice.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **CONTINUANCE** Case No. 20552 to the meeting on August 28, 2007, on the following described property:

LTS 6 & 7 BLK 3, FRED THOMPSON 2ND ADDN, City of Tulsa, Tulsa County,
State of Oklahoma

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MINUTES

On **MOTION** of **Tidwell**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** the Minutes of July 10, 2007 (No. 960).

On **MOTION** of **Tidwell**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** the Minutes of July 24, 2007 (No. 961).

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UNFINISHED BUSINESS

Case No. 20497

Action Requested:

Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, pawn shops and another liquor store (Section 1214.C.3), located: 6161 South 33rd West Avenue.

Presentation:

Thomas Burns, 2855 21st Place, stated he had asked for a continuance to this date. The day labor business is no longer in the shopping center.

Comments and Questions:

Ms. Stead asked if he had written proof from the landlord. The Board asked for verification at the last meeting. Mr. Burns replied that he could obtain that letter within the hour. Ms. Stead stated he would have until the end of this meeting to bring the letter to the Board. Mr. Cuthbertson reminded the Board that if he did not come back before the end of the agenda the case would have to be continued. Ms. Stead informed Mr. Burns the case would be continued if he did not return with the letter.

Board Action:

No action was taken at this time, on the following described property:

LT 1 BLK 1, SUNWEST HIGHLANDS PLAZA, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20533

Action Requested:

Request for refund.

Presentation:

Mr. Cuthbertson stated this is a request for refund for Robert Sprague. He was before the Board at the last meeting requesting to have a storm shelter in the front yard, which was denied. Ms. Stead responded that the Board members mentioned giving the refund.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Refund of \$431.00, on the following described property:

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

Case No. 20534

Action Requested:

Variance of the minimum lot area, land area per dwelling, frontage, and livability space per dwelling for a duplex use in the RS-3 district (Section 404.C), located: 1420 South College Avenue East.

Mr. Cuthbertson reminded the Board the applicant was previously before the Board for the special exception, which was granted subject to site plan approval. It was determined that they also needed the above listed variances. Additionally, they were instructed to bring a site plan for approval.

Presentation:

Brad Dorsey, 25577 Blackberry Boulevard, Claremore, Oklahoma, provided a modified site plan and an alternate design for dwelling units on the two existing 25 ft. lots (Exhibits B-1 and B-2). They increased the setback and made room for three cars, including the garage. He mentioned the history of duplexes in the neighborhood. He stated the hardship would be the non-conforming street with very small lots. He did not think that any of the duplexes in the neighborhood would conform to the standards from which he is requesting variances. He asked not to be held to a higher standard. He called the Board members' attention to the design for a single-family dwelling on each of the two lots.

Comments and Questions:

Mr. White commented that the duplexes Mr. Dorsey referred to were built before the zoning code.

Interested Parties:

Susan Cunningham, 1430 South College, commented there are numerous rental properties in the neighborhood and they are not maintained well. She stated other houses are set back on the lots. She complained this would stick out and have a driveway. Mr. Stephens asked when her house was built and they determined it was built in the 1920's or 1930's. She stated she has called Neighborhood Inspections with her complaints. She was concerned about the size and the frontage.

John Richardson, 1424 South College Avenue, stated the proposed construction style is inappropriate for the neighborhood.

Fran Pace, 1326 South Florence Avenue, stated that this lot in RS-3 zoning does not meet the minimum requirements in Section 404.C. She questioned if the Board could take action on this case. She indicated she did not want an approval of this application to set a precedent.

Applicant's Rebuttal:

Mr. Dorsey stated the plan is not for a two-story but 1 ½ stories. They designed the architecture to make it appear more like a cottage.

Mr. White asked Mr. Ackermann about the statements of Ms. Pace. Mr. Ackermann referred to Section 1607 that the Board may grant such variances from the terms of this code. He added that the purpose is that when the code imposes certain conditions upon property owners that may create a hardship, as the hardship is defined in the code, then the Board has the authority to grant variances. Mr. White noted there is a two-story duplex to the back of this property. Mr. Stephens noted the applicant has moved the structure back on the lot, making it more appealing. He stated they are within the height requirement. Mr. White noted the house could be wider, deeper and taller.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Variance of the minimum lot area, land area per dwelling, frontage, and livability space per dwelling for a duplex use in the RS-3 district (Section 404.C), 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; and finding the hardship to be the existing duplexes in the area and existing non-conforming lot;

Ms. Stead called for a discussion on the motion, asking for the page numbers of the plans to be stated.

On **Motion** of **White**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Special Exception to permit duplex use (Use Unit 7) in an RS-3 district, 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, per plan submitted on this date, as on pages 5.7, 5.8 and 5.9, with a setback of 35 ½ ft. from the front property line, on the following described property:

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

Case No. 20497

Action Requested:

Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, pawn shops and another liquor store (Section 1214.C.3), located: 6161 South 33rd Avenue West.

Presentation:

Thomas Burns returned with a letter (Exhibit A-1) from the landlord verifying the spacing requirement by confirming that Labor Ready had vacated the center.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, pawn shops and another liquor store (Section 1214.C.3), based on the letter received today from Mr. Hardison, the landlord of the shopping center, on the following described property:

LT 1 BLK 1, SUNWEST HIGHLANDS PLAZA, City of Tulsa, Tulsa County, State of Oklahoma

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:

The applicant was not present.

Interested Parties:

There were no interested parties who wished to speak. The Board received a letter of opposition (Exhibit C-1).

Board Action:

The Board moved the case to the end of the agenda.

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

NEW APPLICATIONS

Case No. 20542

Action Requested:

Appeal of an administrative official's determination. (Section 1605) located: 7813 East Admiral Place North.

Presentation:

Stephen Grayless, 7030 South Yale, Suite 404, stated Jack Sanstra, General Manager, Billiard's of Tulsa is here to answer any questions. Ms. Stead acknowledge the receipt of his letter to the Board. Mr. Grayless stated that Billiard's of Tulsa is a retail sales establishment and is located in a CH district. He added that everything they are doing is in compliance with the zoning code. They store a few items outside that are used. He informed the Board there are pallets stored outside also, but they are not at issue. He informed the Board that they store used hot tubs and game machines and none of it is junk or salvage. Mr. Stephens asked if all the items outside are for sale. Mr. Grayless replied that occasionally they take a trade-in on a used hot tub or a vending machine that is no longer working. Some of these have parts that can be used in other machines that are then sold as used machines. Those parts that cannot be used are discarded.

Interested Parties:

Kevin Cox, 111 South Greenwood, Neighborhood Inspections, submitted exhibits (Exhibits I-1 and I-2), including photographs, zoning restrictions and other

documentation. During the beautification process along the I-244 corridor, they found this property had previous cases of violation of the code, with outside storage, junk and debris. The inspector found trash, junk and debris, including dismantled, junked video games and vending machines along the northeast side of 7813 East Admiral Place. Also, inside a dilapidated structure were a pile of discarded game parts and near the structure a large pile of discarded wood pallets and dismantled spas along the east side of 7801 East Admiral Place. These have the potential for harboring rodents, mice and vermin. The applicant received multiple notices and inspections and met with inspectors. Further discussion with the property owner, manager and Neighborhood Inspections' supervisor and inspector revealed no intention to comply with the City ordinance. At that time a criminal citation was issued and booked into Municipal Court for outside storage of trash, junk and debris. A new notice was issued because of a change in name and property owner and an additional mortgage company. There was more discussion with the manager, property owner and their attorney. There was a Nuisance Hearing held and an appeal was denied and the property was declared a public nuisance. He stated that approximately forty discarded game machines were removed from the north side of the property along with seven from the dilapidated structure. He asked that the appeal be denied and the decision of the inspector upheld.

Comments and Questions:

Ms. Stead stated she could not go on the property and so did not see all of the things in the photographs. She asked if it still looked that way since the pictures were taken. Mr. Cox stated the applicant made some improvement. He added that the fact that the property owner acknowledged that they are pulling parts off of one machine to put on another falls under a Use Unit 28 guideline as junk, salvage and salvage-like activities.

Applicant's Rebuttal:

Mr. Grayless responded that the salvage designation in Use Unit 28 does not mention salvage-like activities. He stated that the machines stored outside can be fixed or have valuable parts. He added that when it does not have any value they remove it from the property.

Mr. White suggested they could put the machines that are repairable inside their industrial property next door. He was inclined to deny the application. Ms. Stead understood some of this problem goes back to 1999, 2005 and 2006 and tended to agree with Mr. White. Mr. Tidwell stated there was too much shown in photographs that needs to be disposed.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **DENY** the appeal in Case No. 20542 of the Administrative Official's determination of Section 1605, on the following described property:

LT 8 & E16.5 VAC ST ADJ ON W LESS BEG NEC LT 8 THW150 TO PT 16.5W
WL LT 8 TH S351 E60 SE91.49 N366.62 POB & LESS S30 FOR STS,
BLOOMFIELD HGTS, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20545

Action Requested:

Verification of the spacing requirement for a liquor store of 300 ft from another liquor store, blood banks, plasma centers, day labor hiring centers, pawn shops and bail bonds offices. (Section 1214.C.3), located: 1275 South Memorial Drive East.

Presentation:

Tina Ring, 1279 South Memorial Drive, verified spacing requirement in the agenda packet.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Verification of the spacing requirement for a liquor store of 300 ft from another liquor store, blood banks, plasma centers, day labor hiring centers, pawn shops and bail bonds offices. (Section 1214.C.3), on the following described property:

LT 7 LESS W10 FOR ST BLK 3 , FOREST ACRES, City of Tulsa, Tulsa County,
State of Oklahoma

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Case No. 20548

Action Requested:

Variance of the maximum square footage permitted for a detached accessory building in an RS-3 district from 568 sq. ft. to 660 sq. ft.; and a Variance of the setback of a detached accessory building to 0 ft.; to permit a new garage, located: 1243 South Gary Avenue East.

Mr. White abstained from Case No. 20548.

Presentation:

Pam Lassek, 1243 South Gary Avenue East, stated her home was built in the late 1920's. The garage is small and dilapidated and needs to be demolished. She provided a site plan, rendering, photographs and letters of support (Exhibits D-1 through D-4). The plans include wood siding and space for two cars. The lot is narrow and the house is set back 41 ft. from the sidewalk. When she purchased

the property the privacy fence was in the utility easement. She had the fence moved. There is a bend in the drive to the garage. She pointed out the decorative cinderblock wall would be removed. She was challenged to save as much of her back yard as possible.

Comments and Questions:

Ms. Stead commented she could not have a window in the garage to the south. Mr. Cuthbertson added this is a fire code issue if you are within three feet of a property line.

Interested Parties:

Carlen Ritter, 10704 South Guthrie, Jenks, Oklahoma, represented Jewel, David John Clark and herself for the 1247 South Gary Avenue property. They don't mind her building a garage but they do not want the garage to be so close to their property.

Applicant's Rebuttal:

She indicated willingness to move further to the north if the Board made a condition.

Board Action:

On **Motion of Stephens**, the Board voted 3-0-1 (Stephens, Stead, Tidwell "aye"; no "nays"; White "abstained"; Henke "absent") to **APPROVE** a Variance of the maximum square footage permitted for a detached accessory building in an RS-3 district from 568 sq. ft. to 660 sq. ft.; and a Variance of the setback of a detached accessory building to 0 ft.; to permit a new garage, per plan, with no windows on the south side; finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan on the following described property:

LT 14 BLK 3, EAST LAWN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20549

Action Requested:

Variance of the required setback from 61st St. from 50 ft. to 35 ft. (Section 903); Variance of the building setback from an abutting R district from 75 ft. to 15 ft. (Section 903); Variance of the parking requirement (Section 1214); to permit a redevelopment for retail uses, located: 9909 East 61st Street South.

Presentation:

Dennis Blind, 4645 South 83rd East Avenue, submitted a site plan (Exhibit E-1). His client plans to reduce the square footage of the footprint and increase the number of parking spaces on site. This improves the property.

Interested Parties:

Karen Bovers-Hicks, 1545 South 99th East Avenue, stated she and her husband live adjacent to this building. She wanted to know how they were reducing the square footage. She had questions about the hours of operation, parking, additional signage and fencing.

Mr. Stephens out at 2:32 p.m.

Ms. Stead asked if they had seen the plans. Ms. Hicks stated her husband went to look at them. They understood they plan to tear down an existing house and build onto the building. Ms. Stead replied it would be 30 ft. wide and a two-story structure.

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

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

Mr. Cuthbertson commented there are three elements of relief requested. When staff reviewed this application it was determined that two of the variance requests are not necessary because they were granted in 1993. They had specific conditions to them at that time and this Board needs to modify the conditions of those two elements, of relief setbacks from the street and R district. The relief from the parking requirement is still necessary. The setbacks from the R district and the street will not changed.

Gerald Hicks, 1545 South 99th East Avenue, asked for assurance that the footage from the R district remains at the existing 15 ft. and for an 8 ft. fence, if possible.

Applicant's Rebuttal:

Mr. Blind responded that the signage will be directed toward 61st Street and the setbacks would remain the same. They would increase the parking per the ordinances and would not block 99th Avenue. Deliveries are by UPS size trucks not semi-trucks. He would discuss the request for the fence with his client. He stated it seemed like a reasonable request to replace a dilapidated fence with an 8 ft. fence. He stated that on this site plan they maintain the existing curb cut on 61st Street and parking would be in compliance with the ordinances and paved.

Mr. Tidwell returned at 3:40 p.m.

Mr. Blind commented they plan to plant a couple of trees along 61st Street.

Comments and Questions:

Ms. Stead asked if he knew the hours of operation. He replied they would be open Monday through Saturday, 10:00 a.m. to 6:00 p.m. He added that it is a specialty shop so they would not have a constant flow of customers like a large retail store. Mr. Stephens asked if they would also offer golf instruction, to which Mr. Blind replied that they would.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Variance of the required setback from 61st St. from 50 ft. to 35 ft. (Section 903); Variance of the building setback from an abutting R district from 75 ft. to 15 ft. (Section 903); Variance of the parking requirement (Section 1214) with parking spaces decreased from 23 to 15 to permit a redevelopment for retail uses; per plan, with conditions for an 8 ft. privacy fence on the north to be constructed and maintained; all driving and parking surfaces be hard-surfaced asphalt or concrete; and all signage be in compliance and located on the 61st Street side of the building, 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:

LT 7 BLK 2, GUY COOK SUB, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20551

Action Requested:

Special Exception to reduce the required front yard 5 ft. in an RS-3 district; Variance of the required rear yard from 20 ft. to 10 ft.; and a Variance of the minimum permitted livability space required in the RS-3 district; to permit a single family dwelling in the RS-3 district, located: West of the Northwest corner of South Detroit Avenue and 42nd Street.

Mr. White abstained from Case No. 20551.

Presentation:

Ron Lewis, 4145 South Cincinnati Avenue, pointed out the narrowness and depth of the lot. He reminded the Board of the utility easement in the panhandle. He stated he has the support of three of his closest neighbors. Ms. Stead commented the Board members remembered this property and the sewer line he had to work around.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stephens**, the Board voted 3-0-1 (Stephens, Stead, Tidwell "aye"; no "nays"; White "abstained"; Henke "absent") to **APPROVE** a Special Exception to reduce the required front yard 5 ft. in an RS-3 district, 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; Variance of the required rear yard from 20 ft. to 10 ft.; and a Variance of the minimum permitted livability space required in the RS-3 district; to permit a single family dwelling in the RS-3 district, per plan, 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:

W. 111.55 ft. of the S. 63.125 ft. of the S 73.125 LT 4 BLK 2, DEMOREST ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20553

Action Requested:

Special Exception to permit a nursing home (Use Unit 2) in an RM-2 and RS-3 district (Section 401), located: 3701 North Cincinnati Avenue.

Presentation:

Roy Johnsen, 205 West 5th Street, Suite 501, represented St. Simeons' Episcopal Home. They established a larger notice area. There have been numerous zoning code changes. Nursing homes are a Use Unit 2 and the special exception is permitted in any district. The subject property is zoned part, RM-2, RS-3 and CH. This expansion is directed toward assisted living and a wellness center. There is good separation from any single-family area and trees between the proposed expansion and single-family homes to the southwest. To the southeast is the Neighbor for Neighbor facility in a commercial district. A site plan was submitted (Exhibit G-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Special Exception to permit a nursing home (Use Unit 2) in an RM-2 and RS-3 district (Section 401), per plan as on page 16.6 of the agenda packet, 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:

PRT SW SW BEG NWC SW SW TH S545.98 E330.93 S175 E255 SELY150.89
E648.76 N843.14 W1323 POB LESS W50 THEREOF & LESS SW DIA/2
S135.65 E33.91 W83.91 THERE OF SEC 13 20 12 21.86AC, City of Tulsa,
Tulsa County, State of Oklahoma

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Case No. 20554

Action Requested:

Variance of the minimum average lot width required in the AG district (Section 303), located: 345 South Lynn Lane Road East.

Presentation:

Shane Fernandez, 345 South Lynn Lane Road, stated he is the property owner. There is a pond that cuts through the west portion of property. He described how they proposed to split the land and pond to keep a 2.2 acre lot.

Interested Parties:

Diana Best, 535 South Lynn Lane Road, asked that the Board reserve the AG quality of the properties.

Tryna Pfieffer, 402 South Lynn Lane Road, stated she does not oppose the application.

Applicant's Rebuttal:

Mr. Fernandez stated that he is designing a very nice house for his neighbor. They are preserving as many trees along the pond and back as possible. He added that the plan they propose would look the same from the street.

Comments and Questions:

Ms. Stead stated the Board would ask for a copy of the right-of-way dedication for the record.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Variance of the minimum average lot width required in the AG district (Section 303), per plan, with

condition for a copy of the right-of-way dedication to be submitted for the record after City Council approval; finding the hardship to be topographic because of the nature of the drainage and existing pond; and 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:

BEG 330.25 NWC W/2 SW NW TH S595 E660 N595 W660 LESS BEG 330.2S
NWC W.2 SW NW TH S146 E274 N146 W274 POB SEC 1 19 14 8.086ACS,
City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20555

Action Requested:

Appeal the determination of the Neighborhood Inspector that auto and allied activities (Use Unit 17) and warehousing/storage (Use Unit 23) uses are being operated on the subject property, located: 5103 South 33rd Avenue West.

Presentation:

Kelly Knowlton, 1801 South Carson, stated he owns a pawnshop, zoned CS. Among other things, he pawns cars and trailers. He understood he was supposed to keep pawned items on site.

Comments and Questions:

Ms. Stead stated she read the laws regarding pawnshops and did not find anything that indicated pawned items must be kept on site.

Interested Parties:

Rick Mayes, Neighborhood Inspections, 111 South Greenwood, submitted photographs (Exhibit J-1). He stated there were several trailers, cars, trucks, water craft, some with sales signs. He pointed out a trailer with flat tires and camper shells. He read the description of automotive sales and allied activities, which are only allowed by special exception by the Board of Adjustment. He showed by photographs that they have moved some of the trailers off the property and auto sales signs were removed. He provided other exhibits (Exhibit J-1).

Darla Hall, 4224 South 24th West Avenue, stated her office is north across the street from the subject property. She was not opposed to a pawnshop until it became too crowded, looking more like a car lot or salvage. She considered it inappropriate.

Mr. White asked for the setback requirements. Mr. Cuthbertson stated both streets are arterials, so the setback would be 50 ft. from the property line or 100 ft. from the centerline. Ms. Stead commented there is a requirement not to take up space that is required parking. Mr. Ackermann added there is also a requirement that the space used shall be counted as floor area for additional required off-street parking. Mr. Cuthbertson mentioned that the additional requirements are in the staff report on the second page.

Kay Price, 5815 South 31st West Avenue, read a letter of complaints (Exhibit J-3), including outside storage within 300 ft. of residential zoning, signage violations and being a poor neighbor. She provided photographs (Exhibit J-2).

Applicant's Rebuttal:

Mr. Knowlton stated he obtained the proper licenses to operate a pawnshop at this location. All of the cars were in pawn, but not the boat. Mr. Stephens asked if he has garage liability insurance, to which Mr. Knowlton replied he has at his other site but not at this one. He added that the pawnshop liability insurance covers the automobiles that come out of pawn.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Henke "absent") to **DENY** the Appeal the determination of the Neighborhood Inspector that auto and allied activities (Use Unit 17) and warehousing/storage (Use Unit 23) uses are being operated on the subject property, on the following described property:

LTS 1 & 2 & PRT LT 3 BEG NWC LT 3 TH S1FOOT SE TO EL N43.59 W135
POB LESS BEG NEC LT 1 TH W135 S110SE TO PT N TO PT 5S NL LT 1 E130
N5 POB BLK 1 , CARBONDALE SECOND ADDN, City of Tulsa, Tulsa County,
State of Oklahoma

*****.

Mr. Tidwell out at 3:30 p.m. for the remainder of the meeting.

Case No. 20556

Action Requested:

Modification of a previously approved site plan to permit a temporary accessory structure to the existing church use in the AG district, located: 5415 East 101st Street South.

Presentation:

Garland Tackett, 3430 East 86th Street, stated he is the Director of Administration for Redeemer Covenant Church. The church has grown so they purchased more land and placed a temporary trailer on the site. They use it for extra class space as they expand and remodel existing interior spaces. The interior renovation is

scheduled to be completed by the first of November. They were advised to make the request for one year. A site plan was provided (Exhibit K-1).

Comments and Questions:

Mr. Ackermann suggested he check with building permit office, because at some point it could be considered a permanent structure under the building code and require a foundation, electrical and more.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 3-0-0 (White, Stephens, Stead, "aye"; no "nays"; no "abstentions"; Tidwell, Henke "absent") to **APPROVE** a Modification of a previously approved site plan to permit a temporary accessory structure to the existing church use in the AG district, finding the temporary accessory structure will be a 68' x 24' trailer, as shown conceptually on page 19.6 of the agenda packet; approval granted for one year.

And,

On **Motion of White**, the Board voted 3-0-0 (White, Stephens, Stead, "aye"; no "nays"; no "abstentions"; Tidwell, Henke "absent") to **APPROVE** a Refund of \$40.00, on the following described property:

LT 1 BLK 1, RESERVE A, REDEEMER COVENANT CHURCH, City of Tulsa,
Tulsa County, State of Oklahoma

Case No. 20561

Action Requested:

A Minor Special Exception to reduce the front setback from 35' to 30' to accomodate a side-entry garage (Section 403), located: 2622 East 33rd Place South.

Presentation:

Robert Keith, 10496 South 87th East Avenue, represented the applicant, Ron Perkins. They needed the variance of the front setback for a side-entry garage.

Interested Parties:

Leo Hass, 2616 East 33rd Place, stated he lives next door. He expressed concern for reducing the setback. His house was built in the late 1950's with a 35 ft. setback. He would not be concerned if the house on the subject property had a 35 ft. setback. Mr. Cuthbertson informed the Board that he had a plat of survey for a property immediately east of the subject property that showed a 28 ft. setback from the property line. A site plan was provided (Exhibit L-1).

Sharon Spence, 2630 East 33rd Place, stated her house was built in 1949. She submitted a petition and photographs (Exhibit L-2). She asked that house line up with the rest of the street, and not extend out closer to the street.

Comments and Questions:

Mr. White explained that he did some research and found the subdivision was platted in 1948. The zoning code went into affect in 1970. The building line was 30 ft. from the property line at the time of subdivision. The code changed the setback to 35 ft. The applicant is asking for approval to change the front setback to the original 30 ft.

Mr. Hass asked if the application is to build with the same setback as the other houses on the street. Mr. White and Ms. Stead replied that was correct.

Applicant's Rebuttal:

Mr. Keith did not feel a rebuttal was necessary.

Board Action:

On **Motion of White**, the Board voted 3-0-0 (White, Stephens, Stead, "aye"; no "nays"; no "abstentions"; Tidwell, Henke "absent") to **APPROVE** a Minor Special Exception to reduce the front setback from 35' to 30' to accomodate a side-entry garage (Section 403), 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, per plan, on the following described property:

LT-6-BLK-4, TIMBERLAND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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:

Stephen Schuller, 1100 ONEOK Plaza, stated the houses were built before the zoning code. He pointed out the unusual configuration of the lot. There is a detached stucco accessory structure, which is a two-car garage. There are large trees, a pool and an elevation change in the subject property. They proposed to tear down the existing garage and build a three-car garage attached to the house. The garage would be in the same place and enlarged. It would be a one-story structure. A modified plan was provided (Exhibit C-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 3-0-0 (White, Stephens, Stead, "aye"; no "nays"; no "abstentions"; Tidwell, Henke "absent") to **APPROVE** a 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, per modified plan submitted today, with condition for no commercial activities, 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:

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

Case No. 17304a

Action Requested:

Request for refund.

Board Action:

On **Motion of White**, the Board voted 3-0-0 (White, Stephens, Stead, "aye"; no "nays"; no "abstentions"; Tidwell, Henke "absent") to **APPROVE** a Request for refund for \$186.75 to the applicant.

There being no further business, the meeting adjourned at 4:03 p.m.

Date approved: 9/11/07


Chair