

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 976
Tuesday, March 25, 2008, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Henke, Chair
Stead, Vice Chair
Tidwell, Secretary
White

**MEMBERS
ABSENT**

Stephens

**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 Wednesday, March 19, 2008, at 9:41 a.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.

MINUTES

On **MOTION** of **Tidwell**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell, "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** the Minutes of February 26, 2008 (No. 974).

UNFINISHED BUSINESS

Case No. 20648

Action Requested:

Special Exception to permit required parking on a lot other than the lot containing the principal use (Section 1301.D) to permit three parcels to share parking, located: Southwest corner of South Harvard Avenue and East 21st Street.

Presentation:

Steven Stecher, 401 South Boston, Suite 1100, attorney, represented the applicant. The application was continued from March 11, 2008 to allow a new advertisement to cover all of the property in the legal description. He referred to a more detailed site plan (Exhibit A-1). A detailed narrative was also provided (Exhibit A-2). The building is vacant and in poor condition as shown in (Exhibit A-3). He pointed out an old building that will be removed. Mr. Stecher reviewed the surrounding properties, showing the busy commercial intersection. He referred to the building they will remodel and improve, intending 1,698 sq. ft. of restaurant use on the east end and general retail use in the rest of the building, about 7,500 square feet. The conceptual plan in (Exhibit A-3) is just for a visual illustration, as no businesses have been procured at this time. A restaurant would require more parking and that is why they made this application. They have made an agreement with the owners of the Empire Optical and Umberto's properties to the west, to share parking with them. They proposed to reconfigure and improve the parking lot. This improvement and the removal of the aforementioned building will provide more than enough parking for all of the uses on these lots. He stated this would be in harmony with the spirit and intent of the zoning code. They believe the arrangement will ensure ample parking within close and controllable parameters. He stated the special exception would not be injurious to the neighborhood or otherwise detrimental to the public welfare. The intensity of the use of the building on the subject property will not be substantially increased.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Special Exception to permit required parking on a lot other than the lot containing the principal use (Section 1301.D) to permit three parcels to share parking; this approval is subject to conditions in the narrative, as shown in the agenda packet on pages 2.6 and 2.7; specifically it will also include the removal of the metal building south of Empire Optical, shown as exhibit D, in the packet presented today; all parking on all-weather, dust-free surface per exhibit A in the packet presented today; 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 4 & 5 & PRT VAC ST BEG 50S & 50W NEC SEC 17 19 13 TH S108.9 TH ON CRV LF 157.6 TH E108.9 POB LESS W45 LT 4 & LESS S40 LT 5 BLK 3; LT 3 and the West 45 FT LT 4 BLK 3; LT 2 BLK 3, BONNIE BRAE, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 20650

Action Requested:

Special Exception to permit Use Unit 5 - Child Care facility in an RS-3 district (Section 401), located: 4813 East King Street North.

Mr. Cuthbertson informed the Board that the applicant is going through the platting process. The TAC recommends sidewalks in front of the property on King Street.

Presentation:

Sue Hilim, stated she owns and operates the Happy Hearts of Early Learning, a childcare center at the corner of King and Yale. She proposed to expand the parent parking lot with a circle drive for better ingress and egress, and to expand the playground (Exhibit B-1 and B-2). The number of children, staff and vans have increased.

Comments and Questions:

Mr. Cuthbertson suggested some preliminary discussion of the six-foot fence shown on the site plan. Ms. Hilim stated the neighbor wants a screening fence to be on the fence line and not hedges on her property. Staff provided a plat waiver application (Exhibit B-3).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Special Exception to permit Use Unit 5 - Child Care facility in an RS-3 district (Section 401), per plan and narrative on pages 3.6 and 3.7 of the agenda, on the following described property:

LT 8 BLK 2, MODERN HGTS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20651

Action Requested:

Variance of the 50 ft. required setback from the centerline of S. Xanthus Ave. (Section 903), located: 702 South Xanthus Avenue.

Presentation:

Gale Plummer, 2105 North Yellowwood, Broken Arrow, Oklahoma, stated the original platting of this property was approximately in 1918. In 1974 a blanket revision was made to the zoning designation of the area which established a

setback of 50 ft. from the centerline of the street. This property is located at the end of a dead-end street. He noted there are structures on adjacent properties that are built to the front property line. The occupant of the subject property will park service trucks and or cars within the new building. They need to maximize the use of the space. The site plan is (Exhibit C-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, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Variance of the 50 ft. required setback from the centerline of S. Xanthus Ave. (Section 903), to 28 ft. 10 in., per plan as shown on page 4.6 of the agenda packet, finding the hardship to be the buildings in the area and the age of those buildings are such that they are frequently to the property line than the 1970 requirements of the Zoning Code; 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:

PRT BLK 9 ABDO ADDN & PRT RESERVE & PRT VAC 7TH ST & PRT LTS 3 & 4 BEG 138.20N SECR LT 3 TH W108.85N57.88 W12 NLY112 SELY CRV RT 140.1 S99.27 POB BLK 1, CENTRAL PLACE SUB, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20652

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2.), located: 1415 West 71st Street.

Presentation:

Shawn Whistler, 8988-L South Sheridan, PMB 189, Tulsa, Oklahoma, submitted a survey verifying the spacing (Exhibit D-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, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** the Verification of the spacing requirement for an outdoor advertising sign of 1200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2.), per surveyor certification, as submitted, on the following described property:

BEG 891.57E NWC S/2 SW SW TH E100 S100 W100 N100 TO POB SEC 2 18 12 .230AC, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20653

Action Requested:

Verification of spacing for an outdoor advertising sign of 1200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2.), located: 14149 East Admiral Place.

Presentation:

Shawn Whistler, 8988-L South Sheridan, PMB 189, Tulsa, Oklahoma, stated that on this site they have a contract for purchase. He submitted a survey (Exhibit E-1). He understood that in 2004 the City Council passed an ordinance requiring spacing reviews of certain types of businesses that required separation. Three of the applications he presented today, including this one, involved some structural enhancement to conform to their company policies. The City has required the applicant to provide proof of spacing.

Comments and Questions:

Mr. Henke noted that the survey certified that the sign is over 1,200 ft. from another sign.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** the Verification of spacing for an outdoor advertising sign of 1200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2.), per the accompanying certificate of survey, on the following described property:

LT 1 LESS BEG SWC LT 1 TH N429.58 NE145.61 S319.88 S135 W150 POB & LESS BEG NEC LT 1 TH S APR 20 W APR 270 SW APR 448.14 N APR 91.53 CRV LF 14.40 E698.03 POB FOR HWY BLK 1, C EMIT WILSON, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20654

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), located: 10811 East 41st Street.

Presentation:

Shawn Whistler, 8988-L South Sheridan, PMB 189, Tulsa, Oklahoma, stated this is the existing billboard located at South Park Church. That is the northeast corner of 41st and Highway 169. He stated they would do some structural and cosmetic improvement. He submitted a certificate of survey (Exhibit F-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, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** the Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), per certificate of survey, on the following described property:

BEG 1320.51N & 243.10E SWC SE TH E417.99 S993.34 TO PT ON E R/W
MINGO VALLEY EXPY TH NW ALG R/W 824.54 N282.56 POB SEC 19 19 14,
City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20655

Action Requested:

Verification of spacing of an outdoor advertising sign of 1200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2.), located: Northeast corner of East Admiral Place and Highway 169.

Presentation:

Shawn Whistler, 8988-L South Sheridan, PMB 189, Tulsa, Oklahoma, stated this billboard is located at St. Mark's United Methodist Church, at the northeast corner of Admiral and Highway 169. His company constructed this structure and they are raising the structural integrity. He provided a survey (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, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** the Verification of spacing of an outdoor advertising sign of 1200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2.), per the accompanying survey, on the following described property:

PT TR 4 BEG 50' N & 25' E SWC N 390.5 E 275 S 390.5 W 275 TO BEG,
SPRING GROVE SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20656

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), located: 5310 East 31st Street South.

Presentation:

Shawn Whistler, 8988-L South Sheridan, PMB 189, Tulsa, Oklahoma, stated this is for the construction of a new billboard in the parking lot of Dollar Thrifty Automotive Group. There is an existing Bank of Oklahoma on premise sign. This would be approximately 525 ft. from the proposed location. In both directions the proposed site is greater than 1,200 ft. from another billboard. He provided a survey (Exhibit H-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, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** the Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), based on the accompanying survey, on the following described property:

LT 3 BLK 1, CITY PLAZA ADDN RESUB PRT MIDWESTERN CENTER, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20657

Action Requested:

Verification of spacing for an outdoor advertising sign of 1200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2.), located: 3510 South 79th Avenue East.

Presentation:

Shawn Whistler, 8988-L South Sheridan, PMB 189, Tulsa, Oklahoma, stated the intend to replace the existing billboard with an improved structure. It is almost twenty years old. He stated it exceeds 1,200 ft. in both directions. He provided a survey (Exhibit I-1).

Comments and Questions:

Mr. White noted a distance less than 1,200 ft. Mr. Whistler explained that this was discussed in the Planning Commission. The interpretation by the City has changed somewhat. Previously the spacing was figured spacing from center of pole to center of pole. This one was constructed a decade before the board to the east. The distance would be 1,208 ft. if measured from center of pole. The distance would be 1,169 ft. if measured from nearest point to nearest point. Mr. Alberty stated that the new definition in the updates to the Sign Code will specify the spacing will be measured from the center of the post. He added that for other spacing setbacks from residential areas will be from the nearest point of the sign to the nearest point on the residential.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** the Verification of spacing for an outdoor advertising sign of 1200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2.), this dimension is based upon the distance between the center of the poles, and the accompanying survey, on the following described property:

PRT LT 1 BEG 156.23SE NWC TH NE283.88 TH ON CRV LF 119.28 SW253.85 NWLY171.98 NW161.61 POB BLK 1, INTERCHANGE PLACE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20658

Action Requested:

Verification of spacing for an outdoor advertising sign of 1,200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2.). , located: 406 West 11th Street.

Presentation:

Shawn Whistler, 8988-L South Sheridan, PMB 189, Tulsa, Oklahoma, stated this location is behind the old Homeland at Denver and the Broken Arrow Expressway. This verification would be for a new billboard.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** the Verification of spacing for an outdoor advertising sign of 1200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2.), based on the accompanying survey, on the following described property:

PRT LTS 3 4 5 & 6 BEG 27.22N & 61.03NS SWC BLK 2 GEORGE PERRMAN
ADDN EL BLK 9 TH NW119.58 N47.69 CRV LF 130 EL S157.83 POB & VAC ST
ADJ ON E THEREOF BLK 9, LINDSEY 2ND ADDN, GEORGE PERRYMAN
ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20662

Action Requested:

Minor Variance to reduce the side-yard setback from Harvard Avenue from 35' to 28' to permit a residence. (Section 403.A.5), located: 3226 East 62nd Street South.

Presentation:

David Center, 208 East New Orleans Street, Broken Arrow, made application for a minor variance the reduce a side yard setback.

Comments and Questions:

Ms. Stead asked if he would object to approval per plan, to which he did not object.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Minor Variance to reduce the side-yard setback from Harvard Avenue from 35' to 28' to permit a residence. (Section 403.A.5), per plan as shown on page 12.6 of the agenda packet, finding the unique topography of the lot would create an unnecessary hardship to honor the setbacks according to code; and finding by reason of extraordinary or exceptional conditions, which are peculiar to the land, 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:

PRT LTS 1 & 5 BEG SECR LT 1 TH N425.12 SW199.11 SWLY CRV LF 43.89
S368.07 E235 POB BLK 1, CLUB VIEW EST, City of Tulsa, Tulsa County, State
of Oklahoma

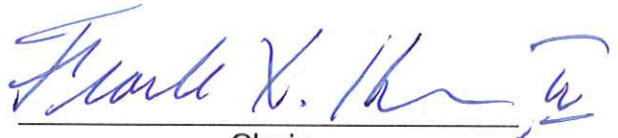
NEW BUSINESS

Ms. Stead asked information from the INCOG staff for sidewalk requirements. Mr. Alberty replied the requirements are in the subdivision regulations. He stated the code does not specify the word "sidewalk", but there is a pedestrian circulation under a Planned Unit Development. The sidewalk is not typically a zoning requirement. It is a development requirement. She desired to see consistency.

There being no further business, the meeting adjourned at 1:55 p.m.

Date approved: _____

4/22/08



Chair