

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 985
Tuesday, August 12, 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
Stephens
White

**MEMBERS
ABSENT**

Tidwell, Secretary

**STAFF
PRESENT**

Alberty
Cuthbertson
Huntsinger

**OTHERS
PRESENT**

Ackermann, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Thursday, August 7, 2008, at 4:47 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.

MINUTES

On **MOTION** of **Stead**, the Board voted 4-0-0 (White, Henke, Stead, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** the Minutes of July 8, 2008 (No. 983).

On **MOTION** of **Stead**, the Board voted 4-0-0 (White, Henke, Stead, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** the Minutes of July 22, 2008 (No. 984).

NEW APPLICATIONS

Case No. 20738

Action Requested:

Variance of the 5 ft. side yard requirement to permit a cabana over a common side lot line (Section 403); a Special Exception to modify the height of a fence in the

required front yard from 4 ft. to 6 ft. (Section 210.B.3), located: 3121 and 3125 South Rockford Drive East.

Mr. Cuthbertson explained the original request included a variance of the five-foot side yard requirement, but the applicant withdrew this request.

Presentation:

Allen Hereforth, 6304 West Utica Street, Tulsa, Oklahoma 74011, Superintendent for La Bella Homes, represented Julius Puma. He stated he owns the fence along Rockford (Exhibit A-1).

Comments and Questions:

Ms. Stead asked whether the height of the fence would be six or seven feet. Mr. Cuthbertson explained the error in communication during the application process. After discussion and the applicant's input they decided to give a continuation for the extra foot of height. Ms. Stead instructed Mr. Hereforth that the Board will need a license agreement and something to demonstrate the fence is one-half the distance required on the Major Street and Highway Plan. Mr. Ackermann explained to the Board the need for approval of the six-foot height now for the applicant to begin construction until he obtains approval for the seven-foot columns.

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, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Special Exception to modify the height of a fence in the required front yard from 4 ft. to 6 ft. (Section 210.B.3), noting that the variance of a five-foot side yard for a cabana has been withdrawn; further noting there are conditions: applicant must furnish a license agreement with the COT; must demonstrate the fence is one-half the distance required on the MSHP from the centerline of Rockford Avenue (25 ft.); per plan as shown on page 2.7 of the agenda packet; noting that the advertised maximum height was six feet for the fence; and a **CONTINUANCE** to the meeting of September 9, 2008 to allow for advertisement of a request for additional relief; 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:

PRT LTS 1 & 2 BEG 202.55S NEC LT 1 TH S75.76 NW195.85 NELY CRV LF 49.36 E187.70 POB LESS W5 THEREOFFOR RD, PRT LTS 1 & 2 BEG 278.31S NEC LT 1 TH S72.24 NW212 NELY CRV LF 49.36 SE195.85 POB LESS W5 THEREOF FOR RD, PEORIA ACRES ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20739

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 & G.9), located: 5736 East 41st Street South.

Presentation:

John Allred, 8988 South Sheridan, Tulsa, Oklahoma, with Whistler Sign Company provided verification of spacing. The Board received a surveyor's certificate.

Interested Parties:

Gary DeWint, 1621 East Omaha B5, Broken Arrow, Oklahoma, 74012, stated he is the Area Manager for What-A-Burger. They have a location at 5726 East 41st. He wanted clarification of the placement of this sign. He was aware of the widening of 41st Street in this area and concerned that they were going to lose the placement of the What-A-Burger sign.

Comments and Questions:

Mr. Cuthbertson responded that the applicant is replacing an existing sign with a digital sign. The location was pointed out to Mr. DeWint. He was satisfied with the answer.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Henke, Stead, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **ACCEPT** a 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, based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, (Section 1221.F.2 & G.9), on the following described property:

BEG 50 S NE COR E 1/2 W 1/2 NW NE TH S 113.2 SW 200 NW 273.2 E 125 S
25 E 75 TO BEG SEC 27-19-13, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20740

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 & G.9), located: 9940 South Riverside Drive.

Presentation:

John Allred, 8988 South Sheridan, Tulsa, Oklahoma, present for questions, having presented the certificate of survey.

Comments and Questions:

Mr. Henke stated the Board had reviewed the certificate of survey.

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, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **ACCEPT** a 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, based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, (Section 1221.F.2 & G.9), on the following described property:

LT 1 BLK 1, KINGS LANDING, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20742

Action Requested:

Special Exception to modify the height of a fence in the required front yard from 4 ft. to 8 ft. (Section 210.B.3), located: 2101 East 24th Street South.

Presentation:

Tyson Tompkins, 1255 East 29th Place, Tulsa, Oklahoma, was present for the hearing.

Comments and Questions:

Ms. Stead asked Mr. Tompkins to point out where the eight-foot stucco wall would be constructed, which he did (Exhibit B-1).

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, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Special Exception to modify the height of a fence in the required front yard from 4 ft. to 8 ft. (Section 210.B.3), per plan on page 5.6 of the agenda packet, noting it will encroach 2 ft. 8 in. into the front yard, 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 12, BLK 2, WILDWOOD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20743

Action Requested:

Variance of the minimum required frontage on an arterial street from 150 ft. to 125 ft. to permit a lot split in an IL district (Section 903), located: 4733 South Mingo Road.

Presentation:

J. R. Donelson, 8410 East 111th Street South, Bixby, Oklahoma, stated this relief would permit him to obtain a lot-split. He pointed out Lot 1, Block 1 of this plat, the north side of the lot is surrounded by easements, making it very small to construct anything. He added if they split the property down the middle, neither piece would have the 150 ft. required frontage (Exhibit C-1).

Comments and Questions:

Ms. Stead asked about a mutual access point using the existing driveway and if they have an agreement. He acknowledged that the driveway is common ownership and they are buying the north portion of the property from Bicycles of Tulsa. He added they will have an agreement for the mutual access.

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, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Variance of the minimum required frontage on an arterial street from 150 ft. to 125 ft. to permit a lot split in an IL district (Section 903), finding the hardship to be a combination of the original lot as platted and would be insufficient size if split in two; the variance would be necessary to develop the north portion, which has numerous easements present, limiting the development of it; will need a mutual access easement agreement between the north and south lots, per plan as shown on page 6.7 of the agenda packet.

Mr. Cuthbertson asked a question on the motion. He asked if the Board could include a limitation of future curb cuts.

Mr. White continued the motion: to include that with the mutual access easement, there will be no additional curb cuts than what currently exists; 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 1 BLK 1, ALSUMA, BICYCLES OF TULSA PRT B40 ALSUMA, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20744

Action Requested:

Variance of the front yard requirement from 35 ft. to 5 ft. to permit a structural addition to an existing dwelling (Section 403), located: 1782 East 30th Street South.

Presentation:

Lou Reynolds, 2727 East 21st Street, described how the current garage has been flooded by storm water backup, multiple times, and up to 18 inches. They have designed and reconfigured the yard for drainage. He showed photographs to the Board with a conceptual plan (Exhibit D-2). He described a proposed walkway bridge to allow for water flow. They planned to place the garage where it will be high enough that it would not flood. He added that it will not interfere with neighbors view or traffic view. The plans are for a 20 ft. height, small two-car garage.

Comments and Questions:

Ms. Stead asked about placing the garage off of Wheeling. Mr. Reynolds replied that it negatively impacts the layout of the house, requiring an entry to a bedroom or the back door. Mr. Stephens asked if they planned for residential living above the garage. Mr. Reynolds responded they do not plan for living space above the garage. It was planned to fit the design of the house. Mr. Reynolds submitted letters of support (Exhibit D-3).

Interested Parties:

Mr. Henke noted the Board received several letters in support and opposition.

John Gaberino, 2121 East 30th Street, Tulsa, Oklahoma, 74114, noting he also represented Jim and Carol Leach at 1742 East 30th Street. He provided a map, highlighting his home and other neighbors (Exhibit D-1). He stated they lived near the subject property during the flood of about 1981. He understands why they would want to do this project but it would create a huge wall in the neighborhood. He believed this would cause a large drainage issue for the properties behind them. He considered it to be beyond the character of the neighborhood.

Mr. Cuthbertson clarified for the record, that the Board did not grant any variance that allowed the house immediately to the west to be this close to the street. He added the Board took action on the rear yard and front yard requirements. The side yard is allowed by right due to the non-conformity of the lot.

Thomas Winters, 1776 East 30th, stated he is the neighbor to the north and suggested they need to get drain pipes the proper size.

Richard Phillips, 123 East 21st Street, stated he represents one of the property owners, Mrs. Chernicky, 1782 East 30th Street South. He spoke in support of the application.

Applicant's Rebuttal:

Mr. Reynolds reminded the Board that the hardship is the flooding of the existing garage. He stated again that it will not interfere with the line of sight for neighbors or traffic.

Interested Parties:

James Leach, 1742 East 30th Street, stated he did not think the application was appropriate and he opposed it.

Applicant's Rebuttal:

Mr. Reynolds replied that wherever they move the garage it would displace the same amount of water.

Comments and Questions:

Mr. Henke and Ms. Stead were opposed, stating it is out of character. Mr. Stephens stated he could not find a hardship.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stead, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **DENY** a Variance of the front yard requirement from 35 ft. to 5 ft. to permit a structural addition to an existing dwelling (Section 403), finding lack of hardship and lack of compatibility with the neighborhood, on the following described property:

LT 19 BLK 17, FOREST HILLS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20746

Action Requested:

Variance of the required rear yards from 20 ft. to 6 in. and a Variance of the required side yards from 10 ft. to 6 in. to permit carports over existing parking areas in the RM-1 district (Section 403), located: 6621 East 19th Street South.

Presentation:

Deborah Thomas, 6621 East 19th Street, Cedar Lane Apartments, proposed to install 100 carports over existing parking lots (Exhibits E-1 and E-2). This is to give increased value and provide incentives for prospective residents. This would also offer some protection for the residents' vehicles.

Interested Parties:

Roy W. Rogers, 6714 East 17th Street, stated he lives in a home just north of the apartments. He was opposed to restricting access for utilities along the property line.

Comments and Questions:

Mr. Cuthbertson interjected that if there is a utility easement along this property line the carports would not be permitted.

Applicant's Rebuttal:

Ms. Thomas was not aware they could not build a structure over an easement.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stead, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Variance of the required rear yards from 20 ft. to 6 in.; and a Variance of the required side yards from 10 ft. to 6 in. to permit carports over existing parking areas in the RM-1 district (Section 403), finding this will provide protection for persons parking on this lot; finding these are 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, per plan as shown on page 8.6 of the agenda packet; noting that the carport structures not have a total height of more than seven feet at the point nearest the abutting residential property lines, on the following described property:

LT 1 BLK 2, LT 2 BLK 1, TWENTY-FIRST AND SHERIDAN CENTER 3RD
ADDN RESUB PRT L1, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20747

Action Requested:

Variance of the minimum frontage required in the CS district from 150 ft. to 55 ft. to permit a lot split for an existing commercial shopping center (Section 703), located: 2160 South Garnett Road East.

Presentation:

Roy Johnsen, 201 West 5th Street, Suite 501, Tulsa, Oklahoma, 74103, summarized Mr. Norman's narrative of the request for this plan (Exhibit F-1 and F-2). He stated this property with the panhandle was approved and platted in 1968. There were no frontage requirements for this property in a commercial district at that time. The panhandle would have been in compliance, but under the current code it would be required to have 150 ft. of frontage on an arterial street. He pointed out the strip shopping center has access to 21st Street and Garnett. At one time both these tracts had one common owner. A lot-split was approved around 2007. They did not have anything in common except ownership. A tie agreement was required. This application is to correct the error, as one parcel was sold with an oversight of the tie agreement. He provided an alternative that would not require the tie agreement.

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, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Variance of the minimum frontage required in the CS district from 150 ft. to 55 ft. to permit a lot split for an existing commercial shopping center (Section 703), finding the hardship was created by the plat in 1968, which provided for a panhandle access from an arterial street, such panhandle would not be allowed under the current zoning code, approval subject to approval by TMAPC for a lot-split, which has been filed, per plan, subject to exhibit A, pages 9.5, 9.6, 9.7 and exhibit C, page 9.8 in the agenda packet, noting further an access agreement across the 55 ft. tract of land was approved November 14, 2007, finding in granting the variance these are extraordinary or exceptional conditions and 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 LTS 1 & 2 & 4 BEG NEC LT 2 TH W150 S140 W10 S150 W APR 479.11 N
APR 520.24 E APR 489.11 S APR 175 E APR 150 S55.24 POB BLK 1
TIFFANY PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20748

Action Requested:

Special Exception to permit Use Unit 15 (other trades and services) in a CS district (Section 701), located: 2930 West Skelly Drive.

Presentation:

Mark DeCorsy, 8975 Renee, Lenexa, Kansas, 66215, stated he is working with Mr. Van Lerberg on the purchase of this property. They have a roofing and landscaping company that is expanding into the Tulsa area. He mentioned they have made some improvements on the property already. They proposed to use part of the four acres to store pre-cast concrete retaining wall blocks and for other roofing and landscaping related work (Exhibit G-1).

Comments and Questions:

Ms. Stead noted there are other uses under Use Unit 15 that would be objectionable on this tract. The Board would want to limit the uses to the specific uses of their company. She noted uses they would not want to approve in perpetuity. Mr. DeCorsy indicated the applicant would be in agreement with this. He added that they would clear the brush in the back and store things so they are not visible. Mr. DeCorsy informed the Board there is a three bedroom house on the property and they plan to have someone live there permanently, and office space. He stated there would be minimal roofing supply but more of a sales office. There would also be bays. There would be a small forklift for the shop, some half-ton pick-up trucks and one roofing truck. Ms. Stead brought up required screening on the south. Mr. Cuthbertson responded that the south is separated by the R-district by a rather large drainage-way and tree coverage. Ms. Stead asked if they could screen materials stored on the lot, to which Mr. DeCorsy replied that they could. Ms. Stead asked about a residence there. Mr. Ackermann responded there has been interpretation from Development Services to allow an accessory dwelling unit for commercial uses that will be used for security personnel to reside on the property. Mr. Cuthbertson stated in 1995 a special exception was approved for the single-family use in the CS district. Mr. Cuthbertson noted that roofing and stonework as a principle use is a Use Unit 25, allowed only in an industrial district. He stated it is not permitted at all in the CS district. Mr. DeCorsy reminded the Board that it would be primarily for office use, but they want to have some materials on hand if someone needs extra at a work site. The Board members advised the applicant that he would have to apply for re-zoning to the TMAPC to have the roofing and stonework business.

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, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Special Exception to permit Use Unit 15 (other trades and services) in a CS district (Section 701), noting specifically this approval is for landscaping services under Use Unit 15, found under number 4 Contract Construction Services only; all parking and driving surfaces on the subject property must be asphalt or concrete; any storage of materials shall be screened from I-44 and/or Skelly Drive; per plan as shown on page 10.6, 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:

LT 1 LESS W508.72 BLK 1 & E61.19 S29 W260 NE NW NW SEC 34 19 12,
HYDE ADDN AMD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20749

Action Requested:

Variance of the side yard requirement abutting a public street from 15 ft. to 0 ft. (Section 403) to permit a carport, located: 304 East 46th Street South.

Presentation:

Steve Olsen, 324 East 3rd Street, represented the owner of the subject property. There was a carport at the time of purchase. The carport deteriorated and the applicant removed it and started to replace it without a building permit (Exhibit H-1, H-2, and H-3). It was located over City of Tulsa property and the City asked him to tear it down. He obtained a license agreement to replace the carport with a sloped composition roof to be more in harmony with the house. Mr. Olsen stated the hardship is that he has no other place to park his cars on the property and the original carport was there when he purchased it.

Comments and Questions:

Ms. Stead asked staff if there was any relief for the applicant in rebuilding the carport. Mr. Cuthbertson stated it is probably a reasonable expectation to be able to provide basic shelter for a vehicle as an accessory to residential dwellings. The house does not have a garage, so it would be reasonable to add a carport or garage. The location of the house on the lot allows room for shelter for vehicles. In current platting, RS-3 zoned corner lots are traditionally much wider to accommodate current setback requirements. This lot is narrower than the RS-3 zoning requires.

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, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Variance of the side yard requirement abutting a public street from 15 ft. to 0 ft. (Section 403) to permit a carport, noting that a license agreement has been obtained from the City of Tulsa, further noting that platting of these lots years ago provided inadequate room for today's needs for basic shelter of vehicles as in this instance; finding if this property had been platted under current standards there would be no need for this variance; finding these 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, per plan as shown on page 11.6 of the agenda packet, and north elevation submitted today, on the following described property:

LT 1 BLK 10, GRACE ELLEN HGTS PRT TR B ANNIE MAY GRANT, City of Tulsa, Tulsa County, State of Oklahoma

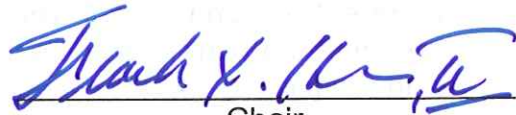
NEW BUSINESS

Mr. Cuthbertson stated there is no new business. He informed the Board that the Community Garden Committee is proceeding on the Mayor's direction to find solutions for community gardens.

Ms. Stead stated she is going to email the City Council and request some language for sidewalks.

There being no further business, the meeting adjourned at 2:44 p.m.

Date approved: 8/26/08


Chair