

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 987
Tuesday, September 9, 2008, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Stead, Vice Chair
Stephens
Tidwell, Secretary
White

**MEMBERS
ABSENT**

Henke, Chair

**STAFF
PRESENT**

Butler
Cuthbertson

**OTHERS
PRESENT**

Ackermann, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Friday, September 5, 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, Vice Chair Stead called the meeting to order at 1:00 p.m.

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Mr. Cuthbertson read the rules and procedures for the Board of Adjustment Public Hearing.

Ms. Stead informed the public there were four of the five Board members present and offered a continuance to those who desired to be heard by the full Board.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20762

Action Requested:

Variance of the 1,200 ft. spacing requirement for an outdoor advertising sign from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), located: 1402 South Lewis Avenue.

Presentation:

Bill LaFortune, 1100 Mid-Continent Tower, Tulsa, Oklahoma, 74103, reminded the Board this case was continued to provide an additional survey. He was ready to present it with additional photographs. He requested a continuance for a full Board to consider the details.

Comments and Questions:

Ms. Stead and Mr. Stephens both requested that the new survey be submitted to staff in time to be included in the Board's packets before the case is heard.

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. 20762 to the meeting on September 23, 2008, on the following described property:

E184 LT 5 LESS BEG NEC TH W 184 S 27.8 E 144 SE 29.7 S111.5 E 10.1 N
160 TO BEG HGWY BLK 4, TERRACE DRIVE 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, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** the Minutes of August 26, 2008 (No. 986).

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UNFINISHED BUSINESS

Case No. 20738

Action Requested:

A Special Exception to modify the height of a fence in the required front yard from 4 ft. to 7 ft. (Section 210.B.3), located: 3121 and 3125 South Rockford Drive.

Mr. Cuthbertson reminded the Board that they approved a special exception to modify the height of the fence from 4 ft. to 6 ft. It came to the Board's attention that the columns rose to 7 ft., therefore it was also continued to go before the Board for the extra one foot height.

Presentation:

The applicant was not present. The site plan is Exhibit A-1.

Interested Parties:

Peter A. Childs, 3114 South Rockford Drive, Tulsa, Oklahoma, 74105, stated he is the President of the Villa Reese Homeowners Association. He was concerned about how close the fence would be to the street. Mr. Cuthbertson stated the fence is set back more than half the distance required by the Major Street and

Highway Plan. Ms. Stead asked if the staff received proof that the fence is half of the distance according to the MSHP from the centerline of Rockford, which should be 25 ft. Mr. Cuthbertson stated the applicant did not provide documentation of the distance. The applicant assured staff that he would provide proof.

Herb Beattie, 3474 South Zunis Avenue, Tulsa, Oklahoma, 74105, represented the Brookside Neighborhood Association. He stated they were in support of the Villa Reese Association and desired assurance of the distance of the fence from the centerline.

Allen Herfurth, stated he planned to provide proof of the 25 ft. distance from the centerline of the street with the permit to the City of Tulsa.

Comments and Questions:

Mr. Ackermann stated the plan he submits for his permit needs to show the setback.

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 modify the height of a fence in the required front yard from 4 ft. to 7 ft. (Section 210.B.3), per site plan as shown on page 2.6 and 2.7 of the agenda; subject to conditions that the wall and fence to be constructed a minimum 25 ft. from the centerline of Rockford Drive; with the stipulation that the only part that will be higher than 6 ft. up to 7 ft. will be the stone columns; and a license agreement for the fence/wall in the City right-of-way; 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. 20751

Action Requested:

Variance of the building setback from the centerline of an abutting street (Section 703); and a Variance of the parking requirement to permit enclosure of an outdoor dining area (Section 1212), located: 3721 South Peoria Avenue.

Presentation:

The applicant was not present.

Comments and Questions:

Ms. Stead remembered the Board needed some data on the parking. She also wanted to know when the building was built. Mr. White mentioned that the variance for the building setback was not needed. The Board acknowledged it but did not officially strike the variance.

Board Action:

This case was moved down on the agenda.

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NEW APPLICATIONS

Case No. 20756

Action Requested:

Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9), located: East of the SE/c of Lynn Lane Rd. and I-44

Presentation:

Ron Havens, 7777 East 38th Street, represented Lamar Outdoor Advertising.

Comments and Questions:

The date on the surveyor's letter was dated July 22, 2007. Ms. Stead reminded Mr. Havens that it must have a newer date. She asked him to have the date change the date and show a measurement in a straight line from the nearest billboard to the one on the application. She added that a graphic of the survey would be more in accordance with the new ordinance.

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. 20756 to the meeting of September 23, 2008, on the following described property:

LT 1 BLK 1, PLAINS, THE, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20757

Action Requested:

Variance of the required front yard in the RS-3 district from 25 ft. to 23 ft. to permit an existing encroachment (Section 403), located: 12419 East 33rd Street.

Presentation:

David Scott, the applicant was not present.

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 Minor Special Exception of the required front yard in the RS-3 district from 25 ft. to 23 ft. to permit an existing encroachment (Section 403), on staff recommendation, as the request is for relief of less than five feet, 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 30 BLK 2, BRIARGLEN EAST PRT RES A BRIARGLEN EXT, City of Tulsa,
Tulsa County, State of Oklahoma

Case No. 20763

Action Requested:

Variance of the minimum frontage required in the IM district from 200 ft. to 80 ft. to permit a lot split (Section 903), located: 2104 West Charles Page Boulevard.

Presentation:

Dallas Livingston, proposed to split this lot and obtain access. Ms. Stead noted the applicant would need a tie agreement so they cannot be developed separately. Mr. Cuthbertson clarified the tie agreement would be for the two lots in Tract 1. He pointed out that the other lot has access to Charles Page Boulevard.

Interested Parties:

Charles Smith, 2304 Charles Page Boulevard, owner and seller of the subject property. He stated he owns the mineral rights to the middle of the river. He added that Mr. Livingston is buying property from him. He just wants to be sure he has access to his property. He provided a legal description (Exhibit B-1).

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 frontage required in the IM district from 200 ft. to 80 ft. to permit a lot split (Section 903), per exhibit 7.6 in the agenda, with a condition for a tie agreement on Tract 1 between the property on the north side of the tracks and the south side of the tracks and south side of the levy; finding the configuration of the land, involved, finding it necessary to have access from Charles Page Boulevard to the south side of the tracks to this portion of tract one; 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:

All of Lt 7, Sec 3, T-19-N, R-12-E, lying South of the Sand Springs and Tulsa Paved Highway right of way except: Beg NW/c Lt 7, Sec 3, T-19-N, R-12-E, TH E along N ln of Lt 7, dis 657.75 ft; TH S and parallel to W ln of said Lot, dis of 121.5 ft to a pt 10 ft N from ctr ln of Sand Springs Railway tract; TH Wstly along a ln 10 ft dis from the ctr ln of the Sand Springs Railway tract to a pt on W Ln of said Lt 7; TH N along W Ln of said Lot 7, a dis of 118.6 ft to POB, in Tulsa County, Okla, according to the U.S.G.S. thereof, EXCEPT THE FOLLOWING DESCRIBED TRACTS: A tract of land in Sec 3, T-19-N, R-12-E, more particularly descrbd as follows: BEG pt in W Bndry of said Lt 7, a dis of 157.4 Ft from the NW/C thereof: THENCE South 0 deg. 01' East along the West Boundary of said Lot 7, and the West Boundary of said Lot 7, if extended, a distance of 372.96 Feet to a point in the North toe of the Levee along the North Bank of the Arkansas River; Thence North 80 deg. 02' 45" East along the North toe of the Levee a distance of 512.70 feet; Thence North 10 deg. 35'45" East a distance of 150.76 Feet; Thence North 86 deg. 58'45" West parallel to and 15.00 Feet from the centerline of an existing Spur Track a distance of 247.43 Feet; Thence North 9 deg. 56'30" East, a distance of 164.32 Feet; Thence Westerly on a curve to the left with radius of 935.37 Feet, parallel to and 20 Feet from the centerline of the Sand Springs Railway Company East bound Main track, a distance of 205.91 Feet; Thence South 79 deg. 10' West parallel to and 20 Feet from the Centerline of the Sand Springs Railway Company East Bound Main Track, a distance of 111.30 Feet to the point of beginning, containing 3.420 Acres, more of less, (As shown in Deed recorded in Book 2382 Page 545). All that part of the SW/4 SE/4 of Section 3, Township 19 North, Range 12 East of the Indian Base and Meridian, Tulsa County, Oklahoma, lying south of Charles Page Boulevard and north of Sand Springs Railroad, particularly described as follows, to wit: Commencing at the northeast corner of said SW/4 SE/4, thence S 00 deg. 01'15" E along the east boundary of said SW/4 SE/4 a distance of 221.81 feet to a point in the southerly right-of-way line of Charles Page Boulevard; thence N 78 deg. 20'30" W along the southerly right-of-way line of Charles Page Boulevard a distance of 462.40 feet to the point of beginning; thence S 13 deg. 08'00" W 78.67 feet to a point in the Northerly right-of-way line of the Sand Springs Railroad; thence N 69 deg. 51'49" W along the northerly boundary of the Sand Springs Railroad a distance of 200.00 feet; thence N 00 deg. 01'08" W 50.20 feet to a point in the southerly right-of-way line of Charles Page Boulevard; thence S 78 deg. 20'30" E along the southerly right-of-way line of Charles Page Boulevard a distance of 218.00 feet to the point of beginning. (As shown in Deed recorded in Book 4067 Page 409). A tract of land situated in Section Three (3), Township Nineteen (19) North, Range Twelve (12) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, and

being more particularly described as follows, to-wit: Commencing at the Northeast corner of the Southeast Quarter (SE/4) of said Section 3; Thence South 00°00'38" West along the East line of said SW/4 a distance of 1319.60 feet to the Northeast corner of Government Lot Eight (8); Thence South 89°46'35" West along the North line of said Government Lot 8 a distance of 1311.22 feet to the Northeast corner of Government Lot Seven (7); Thence South 00°01'15" East along the East line of said Government Lot 7 a distance of 221.81 feet to a point on the South Right-of-Way line of Charles Page Boulevard, said point also being the Point of Beginning; Thence continuing South 00°01'15" East along said East line a distance of 156.21 feet to a point on the North Right-of-Way line of the Sand Springs Railway, said point being northerly of and 20.00 feet perpendicularly distant to the centerline of the northernmost track of the Sand Springs Railway Company; Thence North 69°49'08" West and parallel to said track a distance of 471.59 feet to a point; Thence North 43°52'30" East a distance of 98.21 feet to a point on the said South Right-of-Way line of Charles Page Boulevard; Thence South 78°20'30" East along said Right-of-Way a distance of 382.40 feet to the Point of Beginning and containing 1.16 acres more or less.

Case No. 20764

Action Requested:

Special Exception to permit the storage of inoperable vehicles in an IM district (Section 901), located: 3306 West Charles Page Boulevard.

Presentation:

Vivian Steele, Charles Page Properties, 3306 Charles Page Boulevard, present for the hearing.

Comments and Questions:

Ms. Stead asked why she did not apply for a salvage yard. Ms. Steele replied they are not operating a salvage yard. They have two or three mechanics on the property and one man that restores cars. They have four and one-half acres with several buildings, which they rent out to various businesses. She stated they occupy two buildings for their own business. They do not foresee operating a salvage yard at that location. Mr. Stephens asked if they sell car parts, to which she replied that they do not. Mr. White asked if they plan to use the entire property for the storage of inoperable vehicles. Ms. Steele replied that they do not, and she stated the various uses, manufacturing, theatrical production company, and a train club.

Ms. Stead informed Ms. Steele that a fence would be required on the west and north and everything they store vehicles and accessories on has to be asphalt or concrete. Ms. Steele replied the storage areas are all concrete (Exhibit C-1). A survey was provided (Exhibit C-2). Ms. Steele responded to Mr. White that they

had a flea market about three or four years ago for about a year. They got a permit from the City.

Interested Parties:

J.D. Smith, 116 South 43rd West Avenue, stated he is the President of the Charles Page Neighborhood Association. He stated they don't object to the use but would like them to put up a screening fence.

Richard Gardner, 5618 South Mingo, Tulsa, Oklahoma, was not opposed to the storage but he also wished for a screening fence.

Comments and Questions:

Board members discussed conditions they would include with approval. Mr. Cuthbertson informed Ms. Steele that if the approval is limited to a time period that she would have to return to the Board for approval of a new application to extend the time.

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 the storage of inoperable vehicles in an IM district (Section 901); approval of the special exception for five years from September 9, 2008; with conditions for an eight-foot, solid wood screening fence on the south side of the railroad right-of-way from the northwest property corner to a point even with the first building on this property to the east of the northwest corner and along the east side of South 33rd West Avenue from the northwest property corner south to where the property line turns east;

Ms. Steele interrupted the motion to ask if the vegetation could be applied as part of the screening. Mr. White replied that it could not, as vegetation may die.

Mr. White continued with the motion, stating the storage of vehicles be limited to that part of the property that is described behind the eight-foot screening fence so they cannot be seen from the roadway; Mr. White stopped to ask the applicant about the number of vehicles on the property.

Joe Ritchey, 5441 South Louisville, stated he is the applicant's husband. He replied that their client has the vehicles and his collection of vehicles fluctuate in the number he has on the property.

Mr. White clarified that the storage of the inoperable vehicles would be limited to that part of the described property lying west of the west end of the northerly-most building; he continued with the other conditions to maintain sidewalks and the surface area for storage of vehicles will be maintained and be asphalt or concrete; and no stacking of vehicles, 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:

BEG 114.32NE INTSEC WL SW & MEANDER COR GOV LT 5 TH ALG ML
NE479.68 NE52.80 NE106.10 TH N226.02 TO S R/W SSRR TH ALG R/W
SW361.21 SWLY CV LF 266.96 SW124.44 TO WL LT5 TH S130.72 NE114.9
S88.62 POB SEC 3 19 12 3.813ACS, , City of Tulsa, Tulsa County, State of
Oklahoma

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Case No. 20765

Action Requested:

Variance of the required side yard from 10 ft. to 5 ft. (Section 403) to permit an addition to an existing dwelling in an RS-1 district, located: 2649 South Columbia Place.

Presentation:

Tom Connell, the contractor on this project, stated the hardship is the configuration of the lot in an RS-1 district (Exhibit D-1). He described it as 120 ft. in width with 106.8 ft. parallel with the street. They proposed to replace the existing detached garage and attach it to the house. He pointed out the setbacks and the lack of a better location on the lot. The house was built in the 1930's and a pool is being built in the back yard.

Interested Parties:

Carolyn Hudson, 2773 East 28th Street, Tulsa, Oklahoma, 74114, was interested in how close it would be to her home, the noise levels, and a privacy fence.

Applicant's Rebuttal:

Mr. Connell stated he received letters of support from neighbors on either side (Exhibit D-2). He contacted the people that would be impacted the most.

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 side yard from 10 ft. to 5 ft. (Section 403) to permit an addition to an existing dwelling in an RS-1 district, per plan as shown on page 9.6 of the agenda, finding the hardship to be the configuration of the lot being angular and not perpendicular to the rear lot line, to which the residence was built perpendicular thereto, 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:

N 120 S 320 LT 3 BLK 5, WOODY-CREST SUB, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20766

Action Requested:

Variance of the required front yard and side yard abutting a public street in an RS-3 district to permit structural additions to an existing house (Section 403), located: 1004 East 36th Place South.

Mr. White abstained, out at about 2:09 p.m.

Presentation:

Jeff Vivion, stated they removed a patio and porch on the west of the house and planned to pour a larger patio in the same place. After pouring the footings and foundation a Neighborhood Inspector asked what they were doing. When they applied for a building permit to cover the patio they found they were beyond the setback line (Exhibit E-1). They saw they were built out no further west than the house north of them. They need the variance to complete the construction. He submitted a petition of support to the Board (Exhibit E-2). Mr. Vivion showed their plans to the Brookside Neighborhood Association and they were supportive. He added that they own the property to the west also.

Interested Parties:

Herb Beattie, informed the Board of the Brookside Neighborhood Association's unanimous support.

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 required front yard and side yard abutting a public street in an RS-3 district to permit structural additions to an existing house (Section 403), finding the lot is of non-conforming use, the irregular shape of the lot is a hardship; 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, per narrative on page 10.6, and plan on 10.7 in the agenda, on the following described property:

LT 12 BK 4, PEORIA PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20767

Action Requested:

Variance of the required parking to permit restaurant use in an existing commercial building in a CH district (Section 1212.D), located: Northeast corner of South Peoria Avenue and East 37th Place.

Presentation:

Lou Reynolds, 2727 East 23 Street, Tulsa, Oklahoma, represented the McCoy Group Properties. They proposed to open a bakery style restaurant, not a bar. It was designed and built as a restaurant in 1969 and the zoning code has changed, which is the hardship. They plan to keep the drive-in lane open.

Comments and Questions:

He provided plans, a narrative, and elevations (Exhibit F-1, F-2 and F-3) including plans to repair the paved parking. He responded to Mr. Ackermann that they plan to keep all of the existing driveway cuts.

Interested Parties:

Herb Beattie, stated the McCoy family reviewed their plans for the Brookside Neighborhood Association and they unanimously endorse the application.

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 parking to permit restaurant use in an existing commercial building in a CH district (Section 1212.D), with conditions to repair and maintain the parking lot and driving lane with asphalt; to repair sidewalks and maintain, per plan page 11.7 and exhibit on page 11.6 minus the second paragraph under "Action Requested"; no landscaping variance needed; finding the hardship that this was originally built in the late 1960's prior to the current code, it met the codes at the time and has adequately operated as a restaurant and has not caused a hardship and it would not adversely affect the neighborhood to grant the variance; 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:

W135 OF S100.5 LT 7 BLK 2, LEE DELL ADDN, City of Tulsa, Tulsa County,
State of Oklahoma

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Case No. 20768

Action Requested:

Variance of the parking requirement for a commercial shopping center to 413 parking spaces (Section 1200), located: 5151 South Peoria Avenue.

Presentation:

Darin Akerman, 6111 East 34th Place, Tulsa, Oklahoma, 74135, submitted a site plan (Exhibit G-1) for the agenda. The shopping center has been there for several decades. He stated that about 12,000 sq. ft. of the northern end of the shopping center will be removed, as well as a couple of other structures with the ODOT taking. The plans include replacing the Mays Drug Store with about 10,500 sq. ft. He pointed out the various uses with different peak demand times that decreases the number of parking spaces needed.

Leroy Pang, 8204 South 70th East Avenue, Tulsa, Oklahoma, stated Mays still wants to have a drive-through lane.

Comments and Questions:

Mr. Cuthbertson reminded the applicant the variance would expire in three years if not executed. They would have to come back to the Board before the three years are up to obtain an extension.

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 Variance of the parking requirement for a commercial shopping center to 413 parking spaces (Section 1200), finding the massive taking of the land by ODOT for the expressway right-of-way is reducing the availability of the parking, the Mays Drug Store will have a drive-through window, which will reduce the parking necessity, and staff found the shopping center parking lot never more than one-fourth utilized during various time of the week and day, 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:

BEGINNING 550 FEET EAST OF THE NORTHWEST CORNER OF SECTION 31, TOWNSHIP 19 NORTH, RANGE 13 EAST, THENCE RUNNING EAST 110 FEET, THENCE RUNNING SOUTH 880 FEET, THENCE RUNNING WEST 660 FEET, THENCE RUNNING NORTH 330 FEET, THENCE RUNNING EAST 550 FEET, THENCE RUNNING NORTH 550 FEET TO THE PLACE OF BEGINNING IN TULSA COUNTY, OKLAHOMA, LESS AND EXCEPT THE EAST 30 FEET AND THE WEST 50 FEET THEREOF; AND, BEGINNING AT A POINT 250 FEET EAST OF THE NORTHWEST CORNER OF SECTION 31, TOWNSHIP 19 NORTH, RANGE 13 EAST, THENCE EAST ALONG THE CENTERLINE OF 51ST STREET 300 FEET, THENCE SOUTH 550 FEET, THENCE WEST 550 FEET, THENCE NORTH ALONG THE CENTER LINE OF PEORIA AVENUE 300 FEET, THENCE EAST 250 FEET, THENCE NORTH 250 FEET, TO THE POINT OF BEGINNING, ALL IN SECTION 31, TOWNSHIP 19 NORTH, RANGE 13 EAST, TULSA COUNTY, OKLAHOMA, LESS AND EXCEPT THE WEST 50 FEET THEREOF; AND, LESS AND EXCEPT THE FOLLOWING DESCRIBED TRACT OF LAND: COMMENCING AT A POINT ON THE NORTH LINE OF SECTION 31-19-13; 250 FEET EAST OF THE NORTHWEST CORNER THEREOF; THENCE EAST ALONG THE NORTH LINE OF SAID SECTION A DISTANCE OF 410 FEET TO A POINT; THENCE SOUTH ALONG A LINE PARALLEL TO THE WEST LINE OF SAID SECTION A DISTANCE OF 99.62 FEET TO A POINT; THENCE IN A SOUTHWESTERLY DIRECTION A DISTANCE OF 261.04 TO A POINT, SAID POINT BEING 123 FEET SOUTH OF THE NORTH LINE AND 400 FEET EAST OF THE WEST LINE OF SAID SECTION 31-19-13; THENCE CONTINUING IN A SOUTHWESTERLY DIRECTION A DISTANCE OF 154.39 FEET TO A POINT, SAID POINT BEING 158.94 FEET SOUTH OF THE NORTH LINE AND 250 FEET EAST OF THE WEST LINE OF SAID SECTION 31-19-13; THENCE NORTH ALONG A LINE PARALLEL TO THE WEST LINE OF SAID SECTION A DISTANCE OF 158.94 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION AND THE PLACE OF BEGINNING.

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Case No. 20724-A

Action Requested:

Variance of the setback requirement for a parking area accessory to a Use Unit 8 from an abutting RS district (Section 1302.C); Variance of the 5 ft. landscape separation of a parking area from an abutting residential district (Section 1002.A.3); and a Special Exception to modify the required screening of a Use Unit 8 (assisted living facility) from an RS district (Section 212.C), located: 7210 South Yale Avenue.

Presentation:

Roy Johnsen, 201 West 5th Street, Suite 501, Tulsa, Oklahoma, 74103, stated this property was previously approved for assisted living memory care. He pointed out

the City-owned detention area in an RS-3 district with a very deep lower elevation change. He also noted there is generally a five-foot landscape area abutting a residential district from parking areas. They sought a waiver of it to move the building further west and have more landscaping in the front. They proposed a wrought iron fence for safety from a steep fall.

Comments and Questions:

Ms. Stead noted the applicant will go for platting following this Board.

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 Variance of the setback requirement for a parking area accessory to a Use Unit 8 from an abutting RS district (Section 1302.C); Variance of the 5 ft. landscape separation of a parking area from an abutting residential district (Section 1002.A.3); and a Special Exception to modify the required screening of a Use Unit 8 (assisted living facility) from an RS district (Section 212.C), per plan as shown on page 13.7 of the agenda, finding the hardship for the variances that the residential district is property owned by the City of Tulsa, being used as a detention pond facility and has a significant drop of elevation at the rear of the property, 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 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:

S250 N917.78 E410 NE NE LESS E60 THEREOF SEC 9 1813 2.01ACS, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

Case No. 20786

Action Requested:

Request for refund.

Presentation:

Mr. Cuthbertson stated staff did not process the application and recommend \$220.00 for 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 \$220.00, as recommended by staff.

Board Policy

The Board agreed to discuss spacing verification and certificates of survey at a later date.

Ms. Stead stated she would prefer to have a graphic of the survey showing a straight-line measurement for verification of spacing.

Case No. 20751

Action Requested:

Variance of the building setback from the centerline of an abutting street (Section 703); and a Variance of the parking requirement to permit enclosure of an outdoor dining area (Section 1212), located: 3721 South Peoria Avenue.

Presentation:

Mr. Cuthbertson stated he would contact the applicant.

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. 20751 to the meeting on September 23, 2008, regarding the following described property:

W305 S165.57 GOV LT 3 LESS W50 & S25 E255 FOR STSSEC 19 19 13, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 2:56 p.m.

Date approved: _____

9/30/08


Chair