

CITY BOARD OF ADJUSTMENT
MINUTES of Special Meeting No. 988sm
Tuesday, September 30, 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
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, Wednesday, September 24, 2008, at 8:14 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 1:11 p.m.

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

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MINUTES

On **MOTION** of **White**, the Board voted 4-0-0 (White, Henke, Stead, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** the Minutes of September 9, 2008 (No. 987).

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REQUEST TO CONTINUE AND CASES TO WITHDRAW

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 informed the Board that the applicant withdrew this application.

Board Action:

No Board action required regarding Case No. 20751, property described as follows:

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

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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:

Mr. Cuthbertson stated a timely request was received for a continuance to October 14, 2008. It is on the posted agenda for continuance to October 14, 2008.

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 HWY BLK 4, TERRACE DRIVE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20770

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: 5265 South Union Avenue.

Presentation:

Mr. Cuthbertson stated the applicant requested a continuance to October 14, 2008.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Henke, Stead, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **CONTINUE** Case No. 20770 to the meeting on October 14, 2008, on the following described property:

PRT W/2 NW BEG 1102.46S NWC NW TH S230.82 E265 S300 W265 S20.82 E1230.46 NE332.87 NW222.16 NW368 N51 W559.55 S110 W265 POB SEC 35 19 12 15.49ACS, City of Tulsa, Tulsa County, State of Oklahoma

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UNFINISHED BUSINESS

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 Southeast corner of Lynn Lane Road and I-44.

Presentation:

Ron Havens, 7777 East 38th Street, Tulsa, Oklahoma, 74145, provided the certificate of survey (Exhibit A-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, Stephens "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **ACCEPT** a 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), 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, on the following described property:

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

NEW APPLICATIONS

Case No. 20769

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: 2311 South 87th East Avenue.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, 74119, provided a verification of spacing. He indicated the ordinance provides for one year from application, and permitting for construction of a sign. He emphasized the one year should be from time of permitting to construction.

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 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), 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, on the following described property:

PRT E/2 E/2 NW & PRT W/2 W/2 NE BEG 1248S NEC 21ST & I-44 CENTER
ADDN TH S321 SW328.43 W40 S40 W90 S30 W205 SW111.27 SW203.70
SW158.40 SW170.08 W59.18 S69.94 SW133.19 W57.16 N312.50 N732.49 W30
N304.26 E25.20 S160.75 E585 N110 E675 POB, City of Tulsa, Tulsa County,
State of Oklahoma

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Case No. 20771

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: 11015 East Pine Street.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, 74119, provided a verification of spacing.

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 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), 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, on the following described property:

LT 5 LESS E223 THEREOF BLK 1, WOLF POINT BUSINESS CENTER RSB PT
B2 WOLF POINT IND PKWY, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20772

Action Requested:

Variance to permit an accessory dwelling in an RS-2 district (Section 207); and a Variance of the side yard requirement from 5 ft. to 1 ft. (Section 403) to permit the improvement of an existing accessory dwelling, located: 2116 South Peoria Avenue.

Presentation:

Barbara Alterman, 14330 Cypress Island Circle, Palm Beach Gardens, Florida, 33410, represented Blake Alterman, the applicant. She discussed the staff comments and presented supporting information to show they have met the conditions for the variances. The site plan (Exhibit B-1) was provided.

Comments and Questions:

Ms. Stead asked when the structure was built. Ms. Alterman replied it was built in the early 1920's.

Interested Parties:

Erik VandenBorn, 2484 South Peoria, Tulsa, Oklahoma, 74114, asked if approval of this application would permit the applicant to build other buildings. Ms. Stead replied that it is just for an addition and improvement of the existing structure. He asked if the code would change to one foot after approval. Ms. Stead responded that it would only in the area affected.

Mary Kinney, 4404 South Gary, Tulsa, Oklahoma, 74105, stated she owns the property at 1222 and 1224 East 21st. She stated the enclosure to the stairs was added without permits. She indicated it is within one foot of her property and she can reach over the fence and touch it. Ms. Stead asked when it was built and Ms. Kinney replied recently. She submitted photographs (Exhibit B-2).

Applicant's Rebuttal:

Ms. Alterman stated the exterior stairway was part of the original structure. It encroached into the setback because they did not have the same codes. The enclosure made the stairs a part of the structure. She added that it has been there for many years. She pointed out that Ms. Kinney's property is elevated much higher. Ms. Alterman stated this is an improvement, which brings it up to the standards of the rest of the community.

Ms. Kinney requested to speak again and was denied.

Mr. White questioned why the request is from 5 ft. to 1 ft. Ms. Stead responded that the plan shows the side yard would be 2 ft. 4 in.

Ms. Stead began the motion and stopped to speak to the applicant regarding the 2 ft. 4 in. Ms. Alterman explained there is a retaining wall that is deteriorating. They

requested a little more space to be sure they were in compliance. She deferred to her son.

Blake Alterman, 2116 South Peoria Avenue, explained they were unable to get a surveyor at the time and so they used the measurements obtained by Ms. Kinney's surveyor.

The Chair allowed the interested parties to speak again.

Erik VandenBorn, was concerned about the one-foot building line, because the applicant had mentioned a lot-split to build another home.

Mr. Cuthbertson stated the property is zoned RS-2 and is not wide enough to accommodate a second principal dwelling.

Ms. Kinney stated she obtained a survey of her property. She indicated the stairs were built about eight years ago.

Applicant's Second Rebuttal:

Ms. Alterman responded that they tried to make an accurate measurement to put on the plan. They asked for the one foot measurement per Ms. Kinney's survey. She stated they need the variance for the structure as it exists now.

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 to permit an accessory dwelling in an RS-2 district (Section 207); and a Variance of the side yard requirement from 5 ft. to 1 ft. (Section 403) to permit the existing improvement or as-built staircase to the dwelling, finding that this property established in the early 1920's did not provided adequate room for the improvements built; approval is per site plan on page 8.8 of the agenda, except the 2 ft. 4 in. measurement shall be changed to one foot or as existing; 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:

LOT 5 BLK 15, SUNSET PARK AMD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20773

Action Requested:

Variance or the required front yard from 30 ft. to 22 ft. (Section 403); and a Variance of the required rear yard from 25 ft. to 16 ft. (Section 403) to permit an addition to an existing dwelling, located: 3121 South Utica Avenue.

Presentation:

James Latta, 3121 South Utica Avenue, Tulsa, Oklahoma, 74105, pointed out that on the west end of the new structure, from the end of the garage to Utica is greater than 20 ft. per the plans submitted (Exhibit C-1). He added that from the front of the garage to the actual street is another four or five feet. Mr. Latta also showed that the neighbor's fence is to the east of the property line, making the distance in the rear yard more like 18 to 20 ft. instead of 16 ft. He stated they can park three to four cars on the driveway. He contacted as many of the neighbors as he could and he has not heard any opposition.

Comments and Questions:

Ms. Stead asked about a small square in the northeast corner on the site plan. Mr. Latta informed the Board it is a small shed, which will be moved to the far southeast corner prior to construction. He was willing to place it in compliance with the zoning code setback requirements. He stated he planned to remove the carport and move the driveway to the north property line.

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 or the required front yard from 30 ft. to 22 ft. (Section 403); and a Variance of the required rear yard from 25 ft. to 16 ft. (Section 403) to permit an addition to an existing dwelling, per plan on page 9.8 of the agenda, noting the present carport will be removed before any other construction, the storage shed in the northeast corner of the lot will be moved toward the south and honor the three foot setback from the property line; all drives will be concrete or asphalt; finding the hardship to be the configuration of the lot, which is only 100 ft. deep because of an earlier lot-split of 46 ft. being removed; and 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, on the following described property:

W100 OF LT 2 BLK 7, BREN-ROSE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20774

Action Requested:

Special Exception to permit single family residential use in a CS district (Section 701); and a Variance of the front yard requirement from 25 ft. to 18 ft. (Section 703), located: Southeast corner of East 6th Street and South Yorktown Avenue.

Presentation:

Jim Bigelow, 7307 South Yale Avenue, Tulsa, Oklahoma, 74136, represented the property owner. He stated they propose to obtain a lot-split. The structures were built in the 1920's (Exhibit D-1).

Interested Parties:

Maria Barnes, 1319 South Terrace Drive, Tulsa, Oklahoma, represented Kendall-Whittier. She questioned the reason for the variance. Ms. Stead explained the house exists there and he needs approval of the 18 ft. front yard requirement for a lot-split. Ms. Barnes expressed support of the application.

Phyl Wilton, 542 South Yorktown, Tulsa, Oklahoma, 74107, stated she was concerned about the lot-split and the CS zoning. Ms. Stead informed her the properties would remain residential.

Applicant's Rebuttal:

Mr. Bigelow assured the Board that his client plans to keep the property residential with rental opportunity.

Comments and Questions:

Ms. Stead reminded Mr. Bigelow of the need for a mutual access agreement on the driveway. She would expect him to uncover the sidewalk and repair them to make a walking surface.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stephens, Stead "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Special Exception to permit single family residential use in a CS district (Section 701); and a Variance of the front yard requirement from 25 ft. to 18 ft. (Section 703), subject to the plan on page 10.6 of the agenda; the sidewalks along 6th Street and Yorktown Avenue to the extent of the property under this application be uncovered, repaired as needed, and maintained in good order; a mutual access agreement over driveway; finding the structures were built in the 1920's and though rezoned in the 1970's, to create consistency with uses along the portion of 6th Street to the east and west, it has continued to be used residence, and to disallow such usage now would create a hardship; in granting the variance, the Board finds 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, and in granting the special exception, 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:

LT 1 BLK 9, HILLCREST ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20775

Action Requested:

Special Exception to permit single family residential use in an OM district (Section 601), located: 4809 South 33rd Avenue West.

Presentation:

Jill Morris, 4809 South 33rd Avenue West, Tulsa, Oklahoma, reviewed some history for the Board. The property was purchased as residential, but the zoning was changed to OM in 1970. The court house did not change the records until two years after she bought it in 2006. She was unaware of that until she prepared to sell it, so this is to make the correction to complete the sale.

Jim Bigelow, Ms. Morris's realtor, stated the sign by survey was permitted for the neighbor and is not on the subject property.

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, Henke, Stead "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Special Exception to permit single family residential use in an OM district (Section 601), finding this is abutting residential usage and zoning to the south and east of the property; and the property could still be used in an OM classification; 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 12 BLK 3, CARBONDALE, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20776

Action Requested:

Special Exception to permit scooter sales, service and repair (Use Unit 17) in a CS district (Section 701), located: 5229 South Peoria Avenue.

Presentation:

Juan Calderon, 4133 South Wheeling, Tulsa, Oklahoma, 74105, reviewed the surrounding uses. He then referred to the history of the property. He stated the neighbors are in support and understand there will not be an issue with parking for the use requested.

Comments and Questions:

Ms. Stead asked about living quarters on the property. He responded there would not be anyone living there.

Interested Parties:

Donna Jasasra, 17220 East Admiral Place, Tulsa, Oklahoma, 74116, asked to respond to the questions. She stated she owns the Affordable Store at 5153 South Peoria Avenue. She is renting just the 1,500 sq. ft. without any living quarters.

Board Action:

On **Motion of White**, to **APPROVE** a Special Exception to permit scooter sales, service and repair only (Use Unit 17) in a CS district (Section 701),

Ms. Stead had a question on the motion regarding the number of years to approve and other conditions.

Mr. White withdrew his motion.

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stephens, Stead "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Special Exception to permit scooter sales, service and repair (Use Unit 17) in a CS district (Section 701), limiting the approval to scooter sales, service and repair only, specifically prohibiting other Use Unit 17 activities; with conditions that no parts or other implements such as tires, and batteries, are to be stored outside; all work to be within the building; limited to ten years from September 30, 2008; 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 1 & 2, CANTRELL ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20777

Action Requested:

Variance of the side yard requirement abutting a public street from 35 ft. to 6 ft. - 6 in. (Section 403); a Variance of the setback requirement for a detached garage from an abutting public street from 20 ft. to 6 ft. - 6 in. (Section 210.B.5.b and 403); and a Variance of the setback of a fence structure from the centerline of an abutting street (Section 215), located: 3047 South Boston Court.

Mr. Cuthbertson clarified that the code requires a 35 ft. setback from an abutting arterial street, and for other streets it is 15 ft. The 15 ft. indicated on the notice was a typographical error. The Board cannot legally act on the variance for the side yard requirement abutting a public street at this time. He stated that a new notice has been distributed for this request.

Presentation:

Keith Robertson, 5567 South Lewis Avenue, Suite 700, Tulsa, Oklahoma, 74105, stated the existing residence located on the corner of 31st and Boston Court was built in 1938. It has 1,800 sq. ft., with two bedrooms, one bath, small kitchen and a utility room.

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

They proposed an expansion of approximately 350 sq. ft. to the north side of the residence. They also proposed to add about 600 sq. ft. to the east and south corner of the residence.

Mr. Stephens in at 2:36 p.m.

The third addition would be 576 sq. ft. for the garage, all per plan (Exhibit E-1). He stated the plans would be the same dimensions as the addition to the neighbor's house across the street. They have contacted the neighbors with a petition (Exhibit E-2) and found they were in support. He stated they will obtain a new license agreement with the City of Tulsa to replace the fence in the same location as the former fence.

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, Stephens, Stead "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Variance of the setback requirement for a detached garage from an abutting public street from 20 ft. to 6 ft. - 6 in. (Section 210.B.5.b and 403); and a Variance of the setback of a fence structure from the centerline of an abutting street (Section 215), finding the existing line of the houses and structures on this particular street have been there since before the zoning code in 1970, and this is a continuation of that line; and

regarding the variance for the fence structure, the new fence structures will be in the original location, with a new license agreement from the City of Tulsa, to be in the public right-of-way, per plan as shown on page 13.7 of the agenda, 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 **Motion of White**, the Board voted 4-0-0 (White, Henke, Stephens, Stead "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **CONTINUE** a Variance of the side yard requirement abutting a public street from 35 ft. to 6 ft. - 6 in. (Section 403) to the meeting on October 14, 2008, on the following described property:

LT 13 & S25 LT 14 BLK 9, TRAVIS PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20778

Action Requested:

Special Exception to permit a manufactured home (Use Unit 9) in an RS-2 district (Section 401); and a Special Exception to extend the time limitation from 1 year (Section 404.E.1), located: 1116 South 135th Avenue.

Presentation:

Stacy Dake, 1116 South 135th East Avenue, Tulsa, Oklahoma, 74108, proposed to move a 1,700 sq. ft. new, manufactured home on the subject property (Exhibits F-1 and F-2). They plan to remove the barn and the existing house. The fence on the front property line and trees as shown in the photograph exhibit will be removed. They plan for a permanent foundation; with the home 18 to 24 inches from the ground, and rock around the foundation.

Comments and Questions:

Ms. Stead determined this to be a modular home, as it will be moved in pieces. Mr. Alberty stated there are two issues involved, a land use and a building code issue. He added that for land use it is considered a modular home but from a build permit perspective it is not. Mr. White concluded that the steel I-beam is the differentiating factor.

Interested Parties:

Felix Keith, 16255 East 125th Street North, Tulsa, Oklahoma, 74021, represented L. G. and Freda Crow who own property in this area. They wanted to know how many structures would be on the property. Ms. Stead responded that Ms. Dake

would move in a modular home, build a porch with a pitched roof, rock around the foundation. It will be no more than 24 in. from the ground. It will appear more like a stick-built home.

Applicant's Rebuttal:

Ms. Dake responded that the home would be built on a permanent foundation.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stephens, Stead "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Special Exception to permit a manufactured home (Use Unit 9) in an RS-2 district (Section 401); and a Special Exception to extend the time limitation from 1 year (Section 404.E.1), subject to per plan as shown on page 14.6 of the agenda, removal of the existing house, barn and front fence, the manufactured home to be new and set no more than 24 in. from the ground on a permanent foundation; tied to existing utilities; rock and or brick around the perimeter; approximately 24 in. from the ground; porch to be constructed on the front with a pitched roof; the drive from the street to be asphalt or concrete and provide two parking spaces; the home 30' x 56' double-wide; for a period of twenty-five years; finding the special exceptions 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:

N152 S494.5 E198 NW NE NW LWSS E25 FOR ST SEC 9 19 14 .60AC, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20779

Action Requested:

Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and another liquor store (Section 1214.C.3), located: 10030 South Riverside Drive.

Presentation:

Jason Bandy, 2826 South 103rd Street, Tulsa, Oklahoma, represented the applicant. The survey was previously provided.

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, Stephens, Stead "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **ACCEPT** a Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers,

day labor hiring centers, bail bond offices, pawn shops, and another liquor store (Section 1214.C.3), 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, on the following described property:

LT 1 BLK 1, KUM & GO CREEK TURNPIKE, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20711-A

Action Requested:

Variance of the frontage requirement on an arterial street from 150 ft. to 18 ft. (Section 903) to permit a lot split in an IL district, located: Northwest corner of East 91st Street and South Delaware Avenue.

Mr. Henke recused himself at 2:57 p.m. out.

Presentation:

Ted Sack, 111 South Elgin, Tulsa, Oklahoma, stated he came before the Board about three months ago with a similar application. This is the Home Depot site. The sign was relocated to this on-site location. They request to split off this 18 ft. section of property (Exhibit G-1). Mr. Sack also indicated that it would allow more parking.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 3-0-1 (White, Stephens, Stead "aye"; no "nays"; Henke "abstained"; Tidwell "absent") to **APPROVE** a Variance of the frontage requirement on an arterial street from 150 ft. to 18 ft. (Section 903) to permit a lot split in an IL district, finding this is necessary to provide room for a relocated sign on the property pursuant to a prior approved case, Case No. 20711, where the lot configuration was established, the 18 ft. had to be created for the sign location, the condition being there be no development on this portion of property other than this relocated sign, without further review; per plan as shown on page 16.8 of the agenda, 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, HOME DEPOT AT 91 DELAWARE CENTER RSB PT DELAWARE
SQUARE, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Henke returned.

Case No. 20780

Action Requested:

Variance of the rear yard requirement from 25' to 11.6' and a Minor Special Exception of the front yard requirement from 35' to 30' (Section 403), located: 2710 East 34th Street.

Presentation:

Stephen Schuller, 100 West 5th Street, Suite 1100, Tulsa, Oklahoma, 74103, represented Brian Freese Architecture. He pointed out the configuration of the property (Exhibit H-1). He showed the Board how the house would line up with the other houses in the area (Exhibit H-2). He added this would be a ranch style house and to the rear would be an attached garage with a 2nd story over it. This plan is for a single-family residence.

Comments and Questions:

Ms. Stead mentioned the drive must be paved with concrete or asphalt.

Interested Parties:

Fred Kirk, 3413 South Columbia Place, Tulsa, Oklahoma, 74105, submitted letters of opposition (Exhibit H-3). He stated they are in support of infill development. They feel that the lots are large in the neighborhood, but they consider this plan too close to the street.

Applicant's Rebuttal:

Mr. Schuller responded that the distance is to be measured from the property line, not the curb. The irregular configuration of the lot with a unique size makes it a little more difficult to place a house.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Henke, Stephens, Stead "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Variance of the rear yard requirement from 25' to 11.6' and a Minor Special Exception of the front yard requirement from 35' to 30' (Section 403), finding the configuration of the lot with the shallow end on the east is only 110 ft. of depth and the west end 174 ft., which makes it difficult to place a home suitable to this area in the land available; subject to conditions: per plan as shown on page 17.7 of the agenda; the drive shown on the plan shall be of concrete; 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; finding this minor 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-18-BLK-7, TIMBERLAND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

Case No. 20781

Action Requested:

Variance of the minimum separation between outdoor advertising signs (Section 1221.F.2 & G.9); and a Variance of the maximum display surface area permitted for an outdoor advertising sign (Section 1221.F.17) to permit the replacement of an existing outdoor advertising sign, located: 1013 East 2nd Street South.

Presentation:

Stephen Schuller, 100 West 5th Street, Suite 1100, Tulsa, Oklahoma, 74103, stated the applicant proposed to replace an existing non-conforming sign on his property. A photograph was provided (Exhibit I-1). He noted the unique location, orientation and visibility of the sign. The sign was erected before the current zoning code. In Case No. 13654 the evidence showed this sign was in place at least since 1970. He pointed out it was located in the northeast corner of the inner dispersal loop near downtown. Mr. Schuller pointed out the brief visibility of this sign from 2nd Street and the 2nd Street entrance ramp onto I-244. He noted that it has very limited visibility and yet it is not seen from the freeways in which corridor it is situated. The visual affect is limited to a small amount of traffic. The sign is 672 sq. ft. Mr. Schuller pointed out the location limits the major street frontage and the small size of the property. The sign is one-sided, facing west. He provided an accident/collision report (Exhibit I-2), which indicated there have not been any accidents in this area in 2008. At this time they are not asking for a digital sign.

Comments and Questions:

Ms. Stead asked for a statement regarding when the sign was placed on the subject property. Mr. Schuller stated that it is his client's and his understanding that this sign was erected before 1970. She asked how they could meet the new zoning code requirements when it states that any outdoor advertising sign shall be oriented to be primarily visible from the freeway. He responded if one considers the Second Street entrance ramp part of the freeway, which she refuted that according to the Major Street and Highway Plan. She asked if he found the sign to be within 400 ft. of Highway 244 or I-75 or both. He stated he believed it is within 400 ft. of both of them. Ms. Stead read in the zoning code that signs that have not

been issued a sign permit shall not be located in any district (Section 1221.F.20). Mr. Schuller stated if they replace the sign they will have to obtain the City Sign Permit. She asked the height of the sign. He replied that it is a 14 ft. tall sign and 15 ft. above ground. Mr. Stephens asked for the hardship of the variance of the maximum display surface. He replied that the small size of the property and the location of the entrance ramp rather than just 2nd Street, there would be enough frontage for 672 sq. ft. sign.

Interested Parties:

Mike Joyce, 1717 South Boulder, Tulsa, Oklahoma, asked for clarification that this is for a non-digital board. He asked if this application was approved that it be specific for non-digital signage.

Michael Payne, 2212 South Marion Avenue, Tulsa, Oklahoma, 74114, stated his business is Happy Hammer at 1105 East 2nd Street. He informed the Board they have theft issues in the area. He noted the shipping containers have contributed to the theft issue. He requested that the sign not be lower or be on a monopole to the left of the existing sign, so as not to block the view.

Applicant's Rebuttal:

Mr. Schuller responded that the applicant is not requesting a digital sign. His client is working with the party that is using the property to bring it into compliance with the zoning code.

Board discussion ensued.

Board Action:

On **Motion** of **Stephens**, the Board voted 4-0-0 (White, Henke, Stephens, Stead "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **DENY** Case No. 20781, Variance of the minimum separation between outdoor advertising signs (Section 1221.F.2 & G.9); and a Variance of the maximum display surface area permitted for an outdoor advertising sign (Section 1221.F.17) to permit the replacement of an existing outdoor advertising sign, finding a lack of hardship, on the following described property:

PT LTS 7 & 8 BEG SE COR LT 7 TH W 90 TO HGY NE 134.67 TO NEC LT 8 S 100 TO BEG BLK 2, HODGE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20782

Action Requested:

Variance of the maximum permitted coverage of a required front yard by an all weather parking area in an RS-1 district from 25% and 33.75% (Section 1303.D), located: 4455 South Gary Avenue.

Presentation:

Dennis Hall, 8242 South Harvard, Suite C, stated the variance would allow for easier access to a three-car garage (Exhibit J-1). He was willing to taper the drive close to the street per Ms. Stead's suggestion. He stated the driveway would be concrete.

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, Stephens, Stead "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Variance of the maximum permitted coverage of a required front yard by an all weather parking area in an RS-1 district from 25% and 33.75% (Section 1303.D), noting the drive will be concrete, per plan as shown on page 19.7 of the agenda, finding this lot is on a curved street and narrow at the street and in order to accommodate today's automobiles, the amount of concrete needs to be increased; finding it is an older part of the city predominantly prior to the current code; and finding this hardship is 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 LT 6 BEG SWC LT 6 TH NW24 CRV RT 58.93 SE214.58 S87.50
NW191.25 POB BLK 2 , VILLA GROVE PARK, City of Tulsa, Tulsa County,
State of Oklahoma

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Case No. 20783

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: 10810 East 45th Street.

Presentation:

Steve Schuller, 100 West 5th Street, Suite 1100, Tulsa, Oklahoma, 74103, represented the applicant, Sam Stokely. The verification of spacing was provided (Exhibit K-1). He pointed out the nearest sign was 1,200 ft. away.

Interested Parties:

Mike Joyce, reminded the Board of a previously approved sign by the City of Tulsa. He was concerned that the City Council allows billboard operators twelve

months if they apply before January 1, 2009 to complete the construction of their signs. He pointed out the approval and permit for a digital sign at a specific location. He stated that the distance from the proposed sign to the one that Whistler has prepared for is less than 1,200 ft. He urged the Board not to take action to approve anything within 1,200 ft. of the Whistler sign that is being planned for construction at this time.

Applicant's Rebuttal:

Mr. Schuller stated there has not been a state sign permit issued, which is a prerequisite to that sign being erected. He added that it requires certain zoning recommendations by the Tulsa Metropolitan Area Planning Commission. He reminded the Board that the distance is measured from an existing sign. The sign has not been constructed or received the required zoning approvals or state sign permit.

Mr. Cuthbertson interjected that the proposed Whistler Board has received a Corridor Sign Plan approval from the TMAPC. They have not received a state permit.

Mr. White asked for clarification regarding another existing sign. Mr. Alberty responded that there was a corridor site plan application, which showed the relocation of that sign, and it was approved.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Henke, Stephens, Stead "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 (Section 1221.F.2), 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, on the following described property:

PRT LTS 2 & 3 BEG 284.94NW SECR LT 2 TH NE365.88 NWLY35 NE110
NW71.76 TH CRV RT 78.54 NE132.06 NW92SW21.10 TH CRV LF 189.56 W10
TH CRV RT 177.93 NW135.27 SW250.67 SE853.79 POB BLK 2, TOWNE
CENTRE II, City of Tulsa, Tulsa County, State of Oklahoma

*****.

Case No. 20784

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: Northwest corner of East 81st Street and South 107th East Avenue.

Presentation:

Sam Stokely, 10111 East 45th Place, Tulsa, Oklahoma, 74146, provided a graphic verification of spacing.

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, Stephens, Stead "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 (Section 1221.F.2), 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, on the following described property:

PRT LT 1 BEG SWC LT 1 TH N262.70 E188.62 S79.50 CRV LF 49.74 CRV RT 25.48 S99.80 W204.95 POB BLK 1, ACADEMY SPORTS & OUTDOORS 81ST STREET, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20789

Action Requested:

Special Exception to modify the height of a fence located in the required front yard from 4 ft. to 8 ft. (Section 210.B.3) and a Variance to permit a swimming pool in the required front yard (Section 210.B.6), located: 1244 South Owasso Avenue.

Mr. Henke out at 4:25 p.m.

Presentation:

Michael Callahan, 1244 South Owasso Avenue, pointed out the side porch on his house and stated there is no rear yard to his property. There is a detached garage to the west separated by about 30 ft. He proposed to put in a swimming pool in his side yard. He added that his address on the side of the house. He told the Board that the City considers that to be his front yard because of the address is on Owasso. He provided photographs and a rendering (Exhibit M-1 and M-2).

Mr. White out at 4:27 p.m. and returned at 4:29 p.m.

The Board suspended proceedings for loss of a quorum until Mr. White returned.

Comments and Questions:

Ms. Stead asked about a statement that the eight-foot height of the proposed fence is measured from the sidewalk. He indicated his yard is level and it would be an even eight feet all of the way around. Ms. Stead noted on the north side that the fireplace is extremely close to a board fence. He replied the plans are for a concrete block wall covered with cement plaster in its place. She asked about the yard between the house and garage. Mr. Callahan stated there is a walkway from the house to the garage. He added there is a sitting porch on that side of the house and he did not think there was enough room for a pool there. Mr. Stephens brought up that an eight-foot wall would hinder the sight-line. He responded that it would not impact the sight-line at all, because the plan is for the wall to where the existing tree is located. They did a visibility study and found it would not be an issue. Mr. Stephens asked for the hardship on the variance to permit a swimming pool. He has had two occasions of breaking and entering through his French doors on the Owasso side.

Mr. Ackermann stated the zoning official determined that the yard on Owasso is the front yard. He informed Mr. Callahan that he did not appeal that determination so it is the front yard.

Interested Parties:

Jo Crowe, 1236 South Owasso, Tulsa, Oklahoma, 74120, stated she lives to the north of the subject property and she was in support. She added that security is a problem.

Fred Kumpf, 1221 South Newport Avenue, Tulsa, Oklahoma 74120, expressed opposition because there was no hardship. The proposed structure is much more than a swimming pool with 2,100 sq. ft. and the house only has 1,300 sq. ft. He stated it was out of proportion to anything in the neighborhood. He also thought it would set a bad precedent.

Jeff Noftscer, 1233 South Newport, Tulsa, Oklahoma, 74120, President of the Tracy Park Historical Neighborhood Association, stated there is no hardship. He opposed the wall also. He stated a pool could be built on the west and he would not need any relief from the code. A similar project was accomplished in this neighborhood. He stated this corner lot is only one of two entrances into the neighborhood and this application would interfere with the Vision 2025 funded plans for the neighborhood entries.

APPLICANT'S REBUTTAL:

Mr. Callahan stated on the west side of the house is a walkway from the house to the garage and around the garage. He added there is also a 15 year old maple tree.

Board Action:

On **Motion** of **Stephens**, the Board voted 3-0-0 (White, Stephens, Stead "aye"; no "nays"; no "abstentions"; Henke, Tidwell "absent") to **DENY** a Special Exception to modify the height of a fence located in the required front yard from 4 ft. to 8 ft. (Section 210.B.3) and a Variance to permit a swimming pool in the required front yard (Section 210.B.6), finding there is no hardship and it would not be in harmony with the spirit and intent of the code and would be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

LT 11 BLK 6, RIDGEWOOD ADDN OF TRACY PARK ADDN, City of Tulsa,
Tulsa County, State of Oklahoma

City of Tulsa Board of Adjustment 2009 Meeting Schedule

Board Action:

On **Motion** of **Stephens**, the Board voted 3-0-0 (White, Stephens, Stead "aye"; no "nays"; no "abstentions"; Henke, Tidwell "absent") to **APPROVE** the BOA 2009 Meeting Schedule as presented.

There being no further business, the meeting adjourned at 5:05 p.m.

Date approved: 10/14/08



Chair