

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 995
Tuesday, February 10, 2009, 1:00 p.m.
Tulsa City Council Chambers
175 East 2nd Street, 2nd Level
One Technology Center

**MEMBERS
PRESENT**

Henke, Chair
Stead, Vice Chair
Tidwell, Secretary
White

**MEMBERS
ABSENT**

Stephens

**STAFF
PRESENT**

Alberty
Butler
Cuthbertson

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Thursday, February 5, 2009, at 2:30 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.

UNFINISHED BUSINESS

Case No. 20847

Action Requested:

Special Exception to permit a manufactured home in the RS-3 district (Section 401); and a Special Exception to permit the manufactured home in the RS-3 district permanently (Section 404.E.1), located: 2711 East Mohawk Boulevard.

Presentation:

Larry Crawford, 6925 East 6th Street, Tulsa, Oklahoma. Mr. Crawford stated he had met with an engineer and per the drawing submitted today, it was decided to cut 2 ft. off the house which will then allow it to meet the setback requirements.

Comments and Questions:

Ms. Stead asked if the porch would be in the front of the house. Mr. Crawford confirmed the porch would only be in the front of the house and would not wrap around the house. Ms. Stead asked Mr. Cuthbertson if this met the setback requirements. Mr. Cuthbertson confirmed that it did. Ms. Stead asked about the concrete block fence and said it could only be 4 ft. high. Mr. Crawford said his grandfather had built the fence and he planned to paint it but he would cut the fence down to 4 ft. Ms. Stead requested that the clutter and debris including the ranch and rail fence be removed. Ms. Stead said the Board does not normally set manufactured homes permanently but they do allow for 15 or 30 years depending on how new the manufactured home is. Ms. Stead also stated that an asphalt or concrete driveway from Mohawk Boulevard would be required. The driveway would have two parking spaces, either stacked or two singles.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Special Exception to permit a manufactured home in the RS-3 district (Section 401) and a Special Exception to permit the manufactured home in the RS-3 district for a period of thirty years. The manufactured home is to be set on a permanent foundation, according to manufacturing specifications with tie downs and tying into all existing utilities. There will be a rock or brick wainscot covering the concrete block around the perimeter. A porch will be constructed on the front utilizing a pitched roof and this porch shall be as noted on the plan received today. There shall be a concrete or asphalt driveway from Mohawk Boulevard to the manufactured home with parking for at least two automobiles either stacked or singularly. Before this home is set, the concrete fence shall be removed or brought back to no more than 4 ft. in height. All debris and clutter particularly along Mohawk Boulevard including the remains of ranch and rail fencing shall be removed. In granting a Special Exception, the Board finds that 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 LT 5 BEG 458.15E OF NWC OF S/2 LT 5 TH SWLY185.70 TO POB TH SWLY74.4 NWLY 138.3 TO NL E86.29 SELY98.4 TO POB, BARRETT & EVANS SUB, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20828

Action Requested:

Variance of the spacing requirement for an outdoor advertising sign from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), located: 10810 East 45th Street South.

Presentation:

John Moody, 3723 East 64th Place, Tulsa, Oklahoma. Mr. Moody stated his client is requesting an 8 ft. variance from center of a pole to center of a pole with the poles being 42 in. in diameter. Mr. Moody said the variance request is not due to economic reasons since the sign pole has been erected. The survey crew received the order to spot a location that was 1,200 ft. from the existing outdoor advertising sign located to the northwest of the property. Mr. Rasmussen of the survey crew shot a location that was 1,200 ft. from the existing sign. Mr. Stokely went out to see where the survey crew had marked the site. He knew that the sign could not be placed in that spot because of the drive, the dumpster and the overhead power lines so he paced it off thinking he was going at a right angle perpendicular to the location that had been spotted. He did not realize that because of the angle of the property and the expressway, he was going up 8 ft. Mr. Rasmussen and the survey crew went out and re-shot the location and discovered the site was 1,192.4 ft. from the existing sign. Mr. Stokely had been issued a permit to build the sign and he had not received a stop order or notice of the appeal until the pole was in the ground.

Comments and Questions:

Mr. Tidwell said he did not have a problem because it is a minute amount of space. Ms. Stead stated it was apparent there were other places for the sign to be placed and that the request for a variance was based on monetary issues only. Mr. Henke stated he had not heard a valid hardship for granting the variance. Mr. White said the site was not researched properly or ill-chosen and did not see a hardship.

Interested Parties:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, 74119. Mr. Joyce said there is no valid hardship in this case. The pole is not in compliance with the 1,200 ft. requirement. There is an area of 96 ft. where the pole could be relocated. Mr. Joyce stated that a certificate was submitted certifying that the location was 1,200 ft. from another outdoor advertising sign but that is not what happened.

Board Action:

On **Motion of White**, the Board voted 3-1-0 (White, Henke, Stead "aye"; Tidwell "nay"; no "abstentions"; Stephens "absent") to **DENY** a variance of the spacing requirement for an outdoor advertising sign from another outdoor advertising sign on the same side of the highway (Section 1221.F.2) finding lack of hardship, 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 NE 132.06 NW92SW21.10 TH CRV LF 189.56 W10
TH CRV RT 177.93 NW 135.27 SW250.67 SE853.79 POB BLK 2, TOWN
CENTRE II, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

Case No. 20849

Action Requested:

Verification of the spacing requirement for a digital/conventional 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: 10102 East 91st Street South.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, 74119. Mr. Joyce noted that this application and the other Whistler Sign Company applications presented today were filed prior to January 1, 2009 and that the spacing under the Ordinance that applies is only the spacing on the same side of the highway. He provided a certificate reflecting that the spacing in both directions on the same side of the highway from the proposed billboard exceeds the 1,200 ft. requirement.

Comments and Questions:

Ms. Stead confirmed with Mr. Boulden that any application filed before January 1, 2009 would fall under the ordinance referring to the same side of the highway although the Board was hearing the case in 2009.

Interested Parties:

John Moody, 3723 East 64th Place, Tulsa, Oklahoma. Mr. Moody represents Stokely Outdoor Advertising and Southcrest Hospital who owns the property across the street from this location. He stated that Mr. Joyce's client did not have a permit for a digital sign and that no digital sign could be built high enough to be seen from the highway. Ms. Stead stated that the Board would not hear these comments because they were not related to the verification of spacing. Mr. Henke advised this was not the proper venue for Mr. Moody's concerns.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** the applicant's verification of spacing requirement between outdoor advertising signs subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign per the surveyor's certificate on page 3.8, on the following described property:

LT 3 BLK 1, CROSSROADS VILLAGE, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20851

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, located: 9810 East 42nd Street.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, 74119. Mr. Joyce stated the spacing certificate dated November 5, 2008, shows that the nearest sign board is 1,531 ft. in one direction and 3,653 ft. in another direction thus satisfying the spacing requirement.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** applicant's verification of spacing between outdoor advertising signs subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign per the surveyor's certificate on page 4.6, on the following described property:

PRT LT 1 BEG NWC LT 1 TH SE138.46 TH ON CRV LF 124.94 SELY83.05 SE244.93 SWLY67.98 SW57 NW485 NE265POB BLK 2, KOGER EXECUTIVE CENTER RESUB PRT FORTY FIRST & MINGO CTR, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20852

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, located: 11320 East Skelly Drive.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, 74119. Mr. Joyce noted the spacing certificate dated December 17, 2008, reflects that the proposed sign location is 5,420 ft. from the nearest existing board in one direction and 1,679 ft. in the opposite direction.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** the applicant's

verification of spacing between outdoor advertising signs subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign per the surveyor's certificate on page 5.6, on the following described property:

PRT LTS 2 & 3 BEG NEC LT 2 TH S175.91 W2.48 SW32.96 SWLY28.42
SW407.35 NW95.65 NE194.23 NELY335.95 POB BLK 1, CAROUSEL
CONCOURSE II, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20853

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.G.9), located: 10401 East 31st Street.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, 74119. Mr. Joyce stated per the spacing certificate dated December 17, 2008, the spacing from the nearest board to the south is 5,855 ft. and the spacing from the nearest board to the north is 4,632 ft.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** the applicant's verification of spacing between outdoor advertising signs subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign per surveyor's certificate on page 6.6, on the following described property:

LT 1 BLK 1, REGENCY SQUARE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20854

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.G.9), located: 2842 North Mingo Valley Expressway.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, 74119. Per the spacing certificate dated December 17, 2008, the spacing from the nearest existing

board to the south is 2,737 ft. and the nearest existing board to the north is 7,864 ft.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** the applicant's verification of spacing between outdoor advertising signs subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign per surveyor's certificate on page 7.6, on the following described property:

ALL SEC LESS BEG SECR E/2 TH W324.6 N TO NL SE THN267.55 NW126.15 N800 CRV LF291.48 NW481.66 NW319.09 N210 NW391.72 W888.43 N150 TO NL SEC E TO NEC E/2 S TO POB & LESS 19.368ACS FOR BLDGS ON LEASED LAND SEC 19 20 14 553.202 ACS, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20855

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.G.9), located: 4041 North Garnett Road.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, 74119. Per the spacing certificate dated December 17, 2008, the spacing from the nearest existing board to the south is 3,607 ft. and the spacing from the nearest existing board to the north is 12,934 ft.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **name**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** the applicant's verification of spacing between outdoor advertising signs subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign per surveyor's certificate on page 8.6, on the following described property:

PRT LT 1 BEG NWC S/2 N/2 NW SW TH E1268.40 S330.67 W1268.59 N330.88 POB BLK 1, MINGO VALLEY INDUSTRIAL PARK, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20856

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.G.9), located: 515 North 49th West Avenue.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, 74119. Per the spacing certificate dated February 4, 2009, the spacing from the nearest billboard to the west is 18,716 ft. and the nearest billboard to the east is 14,964 ft.

Comments and Questions:

Ms. Stead asked about the February 4, 2009 date of the surveyor's certificate and whether the new ordinance would apply in this case. Mr. Joyce noted that the application was filed in a timely fashion. Ms. Stead asked how the Board would know that since a copy of the permit was not submitted. She suggested that this case be continued until a copy of the permit could be 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, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** this to the meeting on February 24, 2009, on the following described property:

S479.6 W400 GOV LT 4 LESS BEG SWC TH N425 E55 S245 SE93.61
SE201.72 NE86.24 S118 W POB & LESS W24.75 N54.6 FOR HWY & ST SEC 4
19 12 2.986 ACS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20857

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: Southeast corner of West 81st Street and Highway 75.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, 74119. Per the spacing certificate dated December 31, 2008, the spacing to the nearest existing board to the south is 1,943 ft. and the spacing to the nearest existing board to the north is 14,508 ft.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** the applicant's verification of spacing between outdoor advertising signs subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign per surveyor's certificate on page 10.6, on the following described property:

BEG NEC NW TH S1326.31 W1209.31 NE167.43 NE671.72NLY402.59
NE238.53 NE78.10 NW24.75 E642.2 TO POB SEC 14 18 12 31.347ACS, City of
Tulsa, Tulsa County, State of Oklahoma

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Case No. 20858

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: 5154 East Skelly Drive.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, 74119. Mr. Joyce noted that this application was filed prior to January 1, 2009, however, the surveyor's certificate is dated February 3, 2009, so he would request a continuance to provide proof of the application date.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** this case until February 24, 2009, on the following described property:

PRT BLK 1 BEG 5SE NEC BLK 1 TH SE156.64 SW9.6 SWLY CRV LF 128.45
S36.55 SW159.77 NW241 NE APR 121.73 SE5 NE184.87 POB, ADMIRAL
BENBOW ADDN RESUB, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20859

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: North of the Northwest corner of US Highway 169 and East 46th Street North.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, 74119. Mr. Joyce stated he could not read the date on the surveyor's certificate.

Comments and Questions:

Ms. Stead said the date on the surveyor's certificate is March 5, 2007, and that the Board would need a more current certificate. Mr. White noted that the view listed on page 12.7 shows a measurement that is less than the required 1,200 ft.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** this case until February 24, 2009, on the following described property:

BEG 659.39W & 608.70N SECR SE TH N1367.73 W1269.32 N659.38 TO PT
ON NL SE E609.81 N181 E1319.38 S181 W43.5 CRV LF85.96 W82.20 S30
E79.20 CRV LF896.56 SW454.50 SW593.20 SW87.10 POB LESS E16.5 S181
SE NE SEC 7 20 14.42.424ACS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20860

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: 8235 East Admiral Place.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, 74119. Mr. Joyce stated there is an error on the surveyor's certificate and would request a continuance so he can meet with the surveyor.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** this case until February 24, 2009, on the following described property:

PRT LTS 4 THRU 7 BEG SECR LT 4 TH N55.97 SW412.43 NE399.92 POB &
ALL LTS 9 THRU 11 BLK 4, MINGO TERRACE, City of Tulsa, Tulsa County,
State of Oklahoma

Case No. 20861

Action Requested:

A Variance of the parking requirement from 117 to 91 for an existing shopping center (Sections 1211.D, 1213.D, 1214.D); and a Verification of the spacing requirement for a liquor store from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and another liquor store (Section 1214.C.3), located: 6318 South Peoria Avenue.

Presentation:

Ted Owens, P.O. Box 481048, Tulsa, Oklahoma. Mr. Owens represents Keith Dorsey who owns KD's Liquor Store at 5100 South Peoria. ODOT has ordered Mr. Dorsey to move his liquor store. He is relocating to 6318 South Peoria.

Comments and Questions:

Ms. Stead she is in the area often and has never seen a problem with parking. Mr. Tidwell says he has never seen any problems with parking. Mr. Henke asked for the hours of operations for the liquor store. Mr. Owens said the store is open from 10 am to 9 pm. Mr. Owens said the disco club has an allocation of 50 parking spaces. He has been unable to confirm the hours of operation for the disco although he thought it opened later in the evening.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a variance of the parking requirement from 117 to 91 spaces for an existing shopping center (Sections 1211.D, 1213.D, 1214.D); and **APPROVE** verification of the spacing requirement for a liquor store from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and another liquor store finding that on the parking requirement reduction that many of the businesses are not open at the same time and feel the existing spaces will accommodate those wishing to shop or linger there. These are extraordinary or exceptional conditions or circumstances 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 variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Codes, or the Comprehensive Plan. Based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant's verification of spacing between a liquor store and blood banks, plasma centers, day labor hiring centers; bail bond offices, pawn shops and another liquor store subject to the action of the Board being void should another above reference conflicting use be constructed prior to this, on the following described property:

LT 1 BLK 2, SOUTH PEORIA GARDENS RESUB PRT TOWNE PARK ADDN,
City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20862

Action Requested:

Amendment to an approved site plan to permit modification of an existing car wash facility, located: 8115 South Mingo Road.

Presentation:

Randy Alley, 4530 South Sheridan, Suite 221, Tulsa, Oklahoma, 74114. He stated the car wash currently has six manual bays and one automatic bay. His client wants to change one of the manual bays to an automatic bay, therefore having five manual bays and two automatic bays.

Comments and Questions:

Before Mr. Alley made his presentation, Ms. Stead asked Staff if building setbacks had been confirmed. Mr. Cuthbertson advised the applicant of the building setback line and the discrepancy in the original site plan that had been submitted. He stated that Mr. Alley had remeasured the setbacks and has provided a new site plan which shows the building setback requirements have been met.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** the amended site plan to permit modification of an existing car wash facility per the revised site plan submitted today, on the following described property:

LT 4 BLK 1, MEADOW BROOK VILLAGE, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20863

Action Requested:

A Variance of the side yard requirement abutting a public street from 45 ft. to 43 ft. from the centerline of East 34th Street, to permit a garage addition (Section 403), located: 3405 South Riverside Drive.

Presentation:

Wayne Elliott, 3405 South Riverside, Tulsa, Oklahoma, 74105. He is requesting a 2 ft. setback from the centerline of 34th Street because the house is setback 43 ft. It is a 1950s house. Mr. Elliott has a single car garage attached to the house

which faces 34th Street. He wants to tear down the single car garage and build a two car garage.

Comments and Questions:

Ms. Stead asked Mr. Elliott to confirm that he would build a two car garage and not a four car garage. He said it is in fact a two car garage. She asked if the one car driveway would remain and that there would be no more curb cuts. Mr. Elliott confirmed there would be no change to the driveway.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a variance of the side yard requirement abutting a public street from 45 ft. to 43 ft. from the centerline of East 34th Street, to permit a garage addition (Section 403), finding that this lot was platted in 1950. The existing homestead is setback 43 ft. meaning that the new two car garage will line up with the existing house. The Board finds that the early platting and setback 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. This is per site plan 16.8 submitted today, on the following described property:

N75 LT 38 & N75 OF W66 LT 39 BLK1, BURGESS ACRES ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20864

Action Requested:

Variance of the parking requirement to permit a church in the CS district (Section 1205.C), located: Northwest corner of Charles Page Boulevard and South Rosedale Avenue.

Presentation:

Kujanga Jackson, 1401 North Charles Page Boulevard, Tulsa, Oklahoma. Based upon the square footage of the sanctuary at New Beginnings Community Church, the requirement is 138 parking spaces. Utilizing the old Reeves Television and Appliance facility on the edge of downtown Tulsa and the additional surrounding land which the church has bought and is converting this land to parking spaces will only bring the number of parking spaces to 94 spaces. When the church bought the facility, it had 27 parking spaces. The owner of the building in front of the

church has given a letter of permission to the church to use his 8 parking spaces on Sunday mornings.

Comments and Questions:

Ms. Stead asked Mr. Jackson to confirm the church's ability to provide parking to the North and East of Rosedale. The church owns that property but is hoping that people will not have to park there. Crossing the street is a safety concern for the church because Rosedale can be very busy. Ms. Stead said that any parking and driving surfaces, including the bus lot, will have to be concrete or asphalt. Mr. Henke asked Mr. Jackson what the church's preference was. Mr. Jackson said option 1 (parking contained to the principal site) is preferred.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a variance of the parking requirement to permit a church in the CS district (Section 1205.C), with the condition that the applicant will furnish Staff an executed copy of the lot combination of all the lots included in the area defined by the site plan on page 17.9 and has submitted today a letter regarding the property south which has 8 parking spaces, that all parking and driving surfaces shall be concrete or asphalt on those properties owned by the church, including the fenced vehicle storage area. Finding the triangular shape of the lot platted in 1920 are extraordinary and exceptional conditions which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

LT 7-14, BLK 2, NEWBLOCK PARK ADDN AMD B1-5 BRADEN MARTIN ADDN
AMD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20865

Action Requested:

Variance of the parking requirement (Section 1213.D); and a Variance of the landscape requirement along the abutting street right-of-way (Section 1002.A.2); to permit an existing commercial use in the CS district, located: Southwest corner of East 51st Street and South Lewis Avenue.

Presentation:

Darryl French, 111 South Elgin, Tulsa, Oklahoma. This is a relatively new development in an older subdivision. The right-of-way and parking was properly planned but the expansion of Interstate 44 has caused ODOT to condemn and redesign the right-of-way line. The expansion will be taking a small portion of the site at the Northeast corner.

Comments and Questions:

Ms. Stead asked if there was any way to provide the landscaping on the line that is East. The parking lot could be redesigned. He is asking for the parking lot variance to be equivalent of one to 250 ft. which is 58 spaces. The intent at this time is that the building be left as is. ODOT's expansion leaves them with 59 spaces. The staff recommendation on page 18.2 states 58 spaces but they actually have 59 spaces left. This would leave a future designer one extra space to spare if there were redesign issues. Ms. Stead said she still did not see why there could not be a 5 ft. landscaping area along Lewis Avenue. Mr. Henke expressed his desire that landscaping remain on Lewis. Mr. French said there will be significant grading between the existing right-of-way and the new proposed ODOT right-of-way. For the majority of the East and Northeast frontage, there was not 5 ft. available without completely redesigning the parking lot. Mr. Henke asked if the elevation would drop from the curb line in front of the store. Mr. French said a retaining wall had been discussed but ODOT's plans are not finalized yet.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a variance of the parking requirement from 65 parking spaces down to 58 parking spaces, Section 1213.D and **DENY** a variance of the landscape requirement along the abutting street right-of-way, Section 1002.A.2 to permit an existing commercial use in the CS district. On the parking requirement, the Board finds that this variance is necessary because of the taking of part of the property by ODOT for highway reconstruction and find that 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 1 BEG 223W & 25.25S NEC S208.89 W249.71 N209.05 E249.97 POB BLK 3, BEG 123W NEC LT 1 TH W100 S234 E100 N234 POB BLK 3, E123 LT 1 LESS BEG NEC TH S145 NE116.10 TO PT 29S & 4W NEC CRV LF TO PT NL E21 POB BLK 3, PERRY'S SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20866**Action Requested:**

Special Exception to permit the storage of motorized vehicles located behind the building setback line on a surface other than one consisting of an all-weather material (Section 222); or a Variance of paving requirement for an unenclosed off-street parking areas (Section 1303.D), located: 9602 East Mohawk Boulevard.

Presentation:

Dennis Blind, 3314 East 51st Street, Tulsa, Oklahoma, 74135. Mr. Blind represents the owners of Tulsa Motocross Raceway. Last November, the owners received a letter of zoning violation and that is why they are here today requesting a special exception to Section 222 or a variance to Section 1303.D which were both cited in the violation by the Inspector. The reason why they are making their application for a variance and/or special exception is that Section 222 in the Code says all motorized vehicles that are designed for travel upon public streets. The motocross track is in existence and is the only one in the metropolitan area and is a legally permitted use in industrial zoning. Motocross bicycles or dirt bikes are not street legal and can not be driven on the pavement so they have to be transported to the site by their owner in a truck or a trailer and then they take them off to race or to do their mechanical work between races by the track in the immediate area. The current owner bought the track last summer and the previous owner had been before the Board requesting clarification on the entry driveway and the parking lot. The previous owner was required to pave the driveway and he also paved parking spaces for 100 spectators. The current bleachers will only accommodate 40 spectators so the previous owner went above and beyond what was required for parking. The all weather surface requirement is a hardship for the motocross track because the tires are not designed for concrete, asphalt or gravel. The tires have this marked on the sidewall because these tires could pick up a rock and throw it. A pedestrian could be hit so it is a safety factor for the participants. The area in question is over 600 ft. past the required setback line on Mohawk Boulevard. In Section 1303.D, there are no vehicles for sale and is not an open storage area. The only time vehicles are there is when a race is underway. There are numerous industrial uses in this area that have storage areas or vehicular movement on areas that are not paved.

Comments and Questions:

Ms. Stead asked Mr. Blind if the raceway was still complying with the Monday-Thursday 4 p.m. to 8 p.m. and Saturday from 9 a.m. to 6 p.m. and closed Friday and Sunday as approved by the Board in a previous case in 1999. Mr. Blind said the raceway is typically open from March to October on Tuesdays and Thursdays. During the weeks they have races, they are open on Tuesdays and Saturdays. Mr. Henke asked the owner to speak to the Board about the hours. Mr. Shoemaker said on Tuesdays and Thursdays, the hours are 5 p.m. to 10 p.m. Ms. Stead informed him that the previous approval was 4 p.m. to 8 p.m. during the week. Mr. Henke said additional relief from the Board would be needed to extend the hours.

Mr. Shoemaker said the raceway is open between 70 and 80 days per year. Mr. Cuthbertson said once the landscape requirement was met, the hours set by the previous Board of Adjustment case were no longer an issue and are unenforceable.

Interested Parties:

David Shoemaker, 16435 East 1st Place, Tulsa, Oklahoma. Mr. Shoemaker said it was only one race where there were a lot of cars parking next to the Ford's fence. Individuals work on their bikes and unload their trailers in the grassy areas. He said if this area is paved, it will create a dangerous situation for the bike riders. Mr. Tidwell asked why this area could not be paved and have a dirt area for the bikers to ride to the track. Mr. Shoemaker said some races have 20 people and some have 50 people so how will he know how many parking spaces to pave. Ms. Stead he would have to plan for the maximum number.

Charles Ford, 9318 East Mohawk Boulevard, Tulsa, Oklahoma. Mr. Ford said his property is west of the raceway. He expressed concerns over people parking next to his property and close to his fence. He provided photographs to show this. He stated people are staying overnight. Ms. Stead asked if the raceway was lighted and Mr. Ford said the track was lighted. Mr. Ford said the previous owner planted trees but thought all of them had died. Mr. Henke said the owners might be able to make some improvements. He said the Board would like to accommodate the neighbors as well as the raceway owners. Mr. Cuthbertson said the use is there by right and the raceway owner could pave the area where the trucks and trailers are now parking up against the fence and be in compliance with Code.

Eldon Ford, 9316 East Mohawk Boulevard, Tulsa, Oklahoma. Mr. Ford asked how a dirt track could exist in the city of Tulsa if all vehicles are to be parked on pavement. Mr. Boulden said this is a Use 20 property in an IM district which allows for a raceway. Ms. Stead said the Board could address the parking issue but could not do anything about the raceway.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** the case until February 24, 2009, on the following described property:

LT 1 BLK 2, LT 1 BLK 3, CARMAC INDUSTRIAL PARK SECOND, City of Tulsa,
Tulsa County, State of Oklahoma

Case No. 20867

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: 9920 East 21st Street South.

Presentation:

The applicant was not present.

Comments and Questions:

Mr. Henke asked Mr. Boulden if the Board could render a decision on the case without the applicant being present. Mr. Boulden said yes.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **ACCEPT** the applicant's verification of spacing between a liquor store and blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops and another liquor store subject to the action of the Board being void should another above reference conflicting use be constructed prior to this store, on the following described property:

LT 1 BLK 1, COUNTRY HARBOR CENTER, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

Case No. 20868

Action Requested:

Special Exception to permit a stadium (Use Unit 20) in the CBD district (Section 701), located: 201 North Elgin Avenue.

Presentation:

Margaret Kobos, 124 East 4th Street, Tulsa, Oklahoma, 74103. The subject property is located generally at the corner of Archer and Elgin. City zoning officials have requested this special exception in a routine permitting process. The Tulsa Stadium Trust is a public trust benefiting the City of Tulsa. The Trust was approved by City Council unanimous vote in Ordinance 2186 on September 25, 2008. The purpose of the Trust is to construct and operate a minor league baseball stadium in downtown Tulsa. The construction of the new baseball park is fully supported by the Mayor, City Council and downtown property owners and the closest neighbors of the site. The main ballpark property was acquired from Tulsa Development Authority for the express purpose of construction of this facility. The use of the property as a baseball stadium is compatible with the surrounding

neighborhood. The stadium fits well with existing and projected uses in its vicinity and adequate facilities such as parking are in place to support the use. Ongoing discussions conducted by the Trust with all affected neighboring areas have produced a positive and mutually beneficial relationship with the surrounding area and beneficial impact on the general welfare of the community. The project has been welcomed by the neighboring property owners. Ms. Kobos clarified two points related to the materials before the Board and the depiction of the project's interaction with ODOT. Specifically, she said the Board of Adjustment case report's aerial photographs of the downtown Tulsa area outlines the subject property. The outline as depicted extends onto Interstate 244 and in fact, is depicted to conflict with the driving service of the interstate. As is common in overlay drawings, the property outline is intended to approximate the boundary of the property and does not imply or represent any agreement between the Trust and ODOT with regards to occupation of the right-of-way. ODOT has informed the Trust that it has developed construction plans to rebuild a portion of Interstate 244 immediately adjacent to the property utilizing funds from the Federal and National economic stimulus bill. The Trust looks forward to working on the highway improvements with ODOT and all affected neighbors for the benefit of the citizens of Tulsa. Ms. Kobos stated the Board had been given a mini-packet including the stadium project information. She offered to review the mini-packet and update the Board with any further site plan developments.

Comments and Questions:

Mr. White asked staff about the application and if it is only to permit the stadium in accordance with the revised plan. He also asked if the Trust would be tied to the plan submitted today or if there would be flexibility in modifying the plan regarding other uses. Mr. Cuthbertson said that decision would be up to the Board and how they approve the Special Exception. Ms. Stead said she had reviewed the Use Unit 20 rules and that she would not want to preclude any other beneficial uses of the stadium. Mr. Boulden stated other uses such as outdoor concerts would be considered customary and incidental to stadium use.

Interested Parties:

Jim Norton, 321 South Boston, Suite 101, Tulsa, Oklahoma, 74103. Downtown Tulsa Unlimited has a 100% favorable recommendation for this project and is excited that the ballpark will be downtown. He urged the Board to grant the Special Exception and allow the Trust to proceed with the ballpark project. It will be a tremendous benefit to downtown Tulsa.

Rueben Gant, 131 North Greenwood Avenue, Tulsa, Oklahoma, 74120. The Greenwood Chamber of Commerce is the immediate property owner to the proposed ballpark. Mr. Gant expressed the Chamber's support for the building of the ballpark. It represents an opportunity for the Chamber to bring some vitality to the district which has been sorely missed for some 30+ years. He sees this as a catalyst for continued development around the ballpark. He sees it as a vehicle to

connect this district to the rest of the northern part of downtown Tulsa. It will create a vibrant entertainment area.

James Alexander, 431 East Ute Street, Tulsa, Oklahoma. Mr. Alexander expressed an opposing viewpoint of the location of the ballpark.

Jason Eric Gomez, City Councilor for District 4, stated he represents the Greenwood area, as well as the geographic location called the Inter-Dispersal Loop. He emphatically supports the baseball stadium. He believes the stadium perfectly encompasses the mantra of "a new kind of energy". The stadium represents enormous economic development opportunity and it will embody the spirit, purpose and intent of the overall vision for downtown Tulsa. He encouraged the Board to vote yes for the Special Exception. Ms. Stead asked Mr. Gomez if he was aware of any new Comprehensive Plan that would prevent the building of the stadium in this area. Mr. Gomez expounded that the energies going on to the west in the Brady Village area and to the south in the Blue Dome area along with the Bok Center, the ballpark ties in with the synergistic approach and attitude of many entrepreneurs in Tulsa.

Stanton Doyle, 7030 South Yale, Tulsa, Oklahoma, 74136. The George Kaiser Family Foundation sees the stadium as an exciting addition to downtown Tulsa. The Foundation is a property owner in the adjacent Brady Village and sees this will be an economic driver for downtown, Greenwood and all of its neighbors.

Applicant's Rebuttal:

Ms. Kobos assured the Board that the Trust had looked at the current plans for both the Brady District and the Comprehensive Plan as they exist today. It is a condition of the project that the Trust work with and comply with all the City's plans.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Special Exception to permit a stadium (Use Unit 20) in the CBD district (Section 701). This approval being for the property south of the ODOT right-of-way line, This approval under Use Unit 20 is specific for stadium use including, but not limited to, various sporting events, special events, festivals, concerts, and like activities. This approval is in accordance with the conceptual plan submitted today. 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:

A TRACT OF LAND THAT IS A PART OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 19 NORTH, RANGE 12 EAST OF THE INDIAN BASE AND MERIDIAN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT AT THE SOUTHWEST CORNER OF BLOCK 45, ORIGINAL TOWN, NOW CITY OF TULSA; THENCE N 24°24'55" W ALONG THE WESTERLY LINE

OF BLOCK 45 A DISTANCE OF 771.56 FEET TO THE NORTHWEST CORNER OF LOT 9, BLOCK 24, ORIGINAL TOWN, NOW CITY OF TULSA; THENCE N 24°24'23" W A DISTANCE OF 49.44 FEET TO A POINT ON THE WEST LINE OF LOT 3, BLOCK 23, NORTH TULSA ADDITION; THENCE N 24°24'24" W ALONG SAID WEST LINE A DISTANCE OF 63.39 FEET; THENCE N 29°06'54" W A DISTANCE OF 29.18 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY OF INTERSTATE 244; THENCE ALONG SAID RIGHT-OF-WAY S 78°23'42" E A DISTANCE OF 249.07 FEET; THENCE S 77°20'50" E A DISTANCE OF 62.95 FEET; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 50.00 FEET, A CHORD BEARING OF N 75°24'28" E AND AN ARC LENGTH OF 47.55 FEET; THENCE S 69°05'18" E A DISTANCE OF 105.11 FEET; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 75.0 FEET, A CHORD BEARING OF S 34°29'14" E AND AN ARC LENGTH OF 85.23 FEET; THENCE S 67°02'40" E A DISTANCE OF 264.54 FEET; THENCE N 71°09'14" E A DISTANCE OF 29.23 FEET; THENCE N 72°21'29" E A DISTANCE OF 29.45 FEET; THENCE S 24°25'36" E A DISTANCE OF 66.43 FEET; THENCE LEAVING SOUTH RIGHT-OF-WAY OF INTERSTATE 244 S 20°36'31" W A DISTANCE OF 113.07 FEET; THENCE S 24°25'36" E A DISTANCE OF 81.30 FEET; THENCE S 67°07'26" E A DISTANCE OF 188.94 FEET TO A POINT ON THE SOUTH LINE OF BLOCK 46 ORIGINAL TOWN, NOW CITY OF TULSA; THENCE S 65°37'11" W A DISTANCE OF 668.13 FEET TO THE POINT OF BEGINNING, SAID TRACTS OF LAND CONTAINING 8.94 ACRES MORE OF LESS

There being no further business, the meeting adjourned at 4:06 p.m.

Date approved: 3/10/09

Frank X. H. W.

Chair

