

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 1025  
Tuesday, May 25, 2010, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2<sup>nd</sup> Street

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Henke, Chair Stead, Vice Chair Tidwell, Secretary Van De Wiele White	<b>None</b>	Cuthbertson Sparger Huntsinger	Boulden, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Tuesday, May 4, 2010, at 9:43 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Henke called the meeting to order at 1:00 p.m.

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

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**MINUTES**

On **MOTION** of **Tidwell**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** the **Minutes** of May 11, 2010 (No. 1024).

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Mr. Henke asked if there were any Requests for Continuance. Mr. Cuthbertson responded that there was one Request for Continuance.

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**Case #21080-Sack & Associates**

**Action Requested:**

Special Exception to permit boat and RV storage (Use Unit 16) in a CS district (Section 701); and a Variance of the frontage requirement in a CS district (Section 703); to permit additional storage space to utilize an existing 15 ft. frontage on S. Memorial Dr.; located at 1137 South 79<sup>th</sup> East Avenue.

Mr. Cuthbertson explained the property is being rezoned and the applicant wanted to allow for additional time to be sure the zoning is going to go through before the board takes action. It was also determined that an additional element of relief is needed on this application to address screening requirements, so the continuance is to address those two issues. Notices have been sent out for the additional element of relief scheduled for the June 8<sup>th</sup> Board of Adjustment hearing.

**Interested Parties**

No interested parties were present.

**Board Action:**

On **MOTION** of **HENKE**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **CONTINUE** Case No. 21080 to the meeting on June 8, 2010; on the following described property:

A TRACT OF LAND THAT IS PART OF THE S/2 OF THE SW/4 OF THE NE/4 OF THE NE/4 OF THE NE/4 OF SECTION 11, T-19-N, R-13-E OF THE INDIAN BASE AND MERIDIAN, CITY OF TULSA, TULSA COUNTY, OKLAHOMA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT A POINT THAT IS THE SOUTHWEST CORNER OF SAID S/2; THENCE N 89°38'43" E ALONG THE SOUTHERLY LINE THEREOF FOR 30.00 FEET TO THE NORTHWEST CORNER OF LOT 2 IN BLOCK 1 OF "TORN TERRACE ADDITION", AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT NUMBER 3383; THENCE CONTINUING N 89°38'43" E ALONG SAID SOUTHERLY LINE AND THE NORTHERLY LINE OF SAID LOT 2 FOR 150.68 FEET TO THE "POINT OF BEGINNING" OF SAID TRACT OF LAND, SAID POINT ALSO BEING THE NORTHWEST CORNER OF LOT 1 IN BLOCK 1 OF SAID "TORN TERRACE ADDITION"; THENCE N 00°11'27" W ALONG THE NORTHERLY EXTENSION OF THE WESTERLY LINE OF LOT 1 FOR 165.15 FEET TO A POINT ON THE NORTHERLY LINE OF THE S/2; THENCE N 89°38'50" E ALONG SAID NORTHERLY LINE FOR 149.69 FEET TO THE NORTHEAST CORNER OF THE S/2; THENCE S 00°11'13" E ALONG THE EASTERLY LINE OF THE S/2 FOR 165.14 FEET TO THE SOUTHEAST CORNER OF THE S/2, SAID POINT ALSO BEING THE MOST NORTHERLY NORTHEAST CORNER OF SAID LOT 1; THENCE S 89°38'43" W ALONG THE NORTHERLY LINE OF LOT 1 FOR 149.68 FEET TO THE "POINT OF BEGINNING" OF SAID TRACT OF LAND.

## **NEW APPLICATIONS**

### **Case 21076-Shelby Navarro**

#### **Action Requested:**

Special Exception to permit a community center/ meeting and performance rental venue (Use Unit D) in an IM district (Section 901); located at 1238 West 41<sup>st</sup> Street South.

#### **Presentation:**

**Shelby Navarro**, 418 South Peoria, Tulsa, OK; the subject tract is located just off Highway 75 on West 41<sup>st</sup> Street. It is a metal building industrial center in the middle of an industrial area. The mixture of uses in this building is a multi-tenant space; it is all one story. We have basically a screen printing shop, an empty space, a couple of warehouse spaces, a machine shop and a place that does some four-wheeler repair. One of the smaller spaces, about 2,500 sq. ft., has been used on occasion, since 2001, for private parties where a band would come in and play, people would come in to listen. This location is good for this because it is an area that clears out after 5:00 P.M. And all the events happen after 5:00. The space has evolved and we will eventually host some theatre groups practice, youth groups, and similar events. There are a couple of homes in the IL area, but they are not really used as homes and are currently for sale to redevelop.

#### **Comments and Questions:**

Ms. Stead asked about the average attendance at events held in the past. Mr. Navarro stated that approximately 100 have attended.

Ms. Stead also asked if security has been hired in the past, and the answer from Mr. Navarro was, "not at this point."

Ms. Stead asked Mr. Boyle about his knowledge of not parking on the grass, and he stated he was fully aware of it. Ms. Stead asked what types of venues have been held in the space, other than bands. Mr. Navarro answered that there had been art shows for TU students and theatre groups have rehearsed there.

Ms. Stead asked if alcohol was only served if it was "catered in" and Mr. Navarro stated he did not want to obtain an alcohol license, and that the facility is open to all ages. Ms. Stead stated that she was on the site on Sunday morning and there were some beer bottles on the site. Mr. Navarro said it was possible that they could have been from someone on the site. Mr. Navarro stated usually by Sunday afternoon everything is cleaned up.

The board confirmed this hearing was strictly for the space (Unit D) highlighted in pink on the map and it was confirmed that it was.

**Interested Parties:**

**Mike Boyle**, 1407 South Gary Place, Tulsa, OK. Ms. Stead asked Mr. Boyle if a cleaning service came in to clean up the area and Mr. Boyle stated he and the tenants clean it up. The whole building is owned by a partnership and we keep it policed very well. Mr. Boyle offered to put up a sign regarding the grass area and parking. The space is large enough for a 170 people occupancy.

**Bob Howard**, 4118 South 38<sup>th</sup> West Avenue, Tulsa, OK. He owns the property adjacent to the property being discussed, it is a rental unit. He says his renters are concerned about the music and impacts of the proposed use. He expressed concern the back doors on this particular building open directly onto his property.

The board asked if there were businesses, in addition to the residence, on the property. Mr. Howard stated yes, he has several businesses there. The board asked Mr. Howard if he had experienced problems from late night parties on the subject property; Mr. Howard stated he could not explicitly isolate the problems to the parties.

Ms. Stead asked Mr. Howard if he would be more comfortable if the board limited the venue to a short period of time to see what kind of neighbors they were going to be. Mr. Howard stated he had no problem with it as long as the people stayed off his property.

**Board Action:**

On **MOTION** of **Stead**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** a special exception to permit a community center meeting/performance/group venue Unit 5 use in the IM district, (Section 901) in an existing multi-space center. This approval applies to Unit D as shown on Page 2.6 and applies to no more than 2,500 sq. ft. and the space described. Also the exception is limited to one (1) year at which the owner will come back to this board for any extension. The owner has agreed that there will be no amplified music after midnight and shall close the facility by 2:00 A.M. There shall be no parking on the grass or dirt next to the creek. The back door (east door) will be used as an emergency exit only with an alarm attached to the door which would be activated if the door were opened. FINDING; on the following described property:

**E110 W160 N448.4 NW NE NW LESS N50 FOR ST SEC 26 19 12**

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**Case No. 21077-John & Susan Sharp**

**Action Requested:**

Special Exception to permit automobile sales (Use Unit 17) in CS district (Section 701): located at 8752 East 11<sup>th</sup> Street South.

**Presentation:**

**Steve Schuler**, 1100 OneOk Plaza, 100 West 5<sup>th</sup> Street, Tulsa, OK. The property is a closed and abandoned gas station. The applicants propose to convert this from an unproductive property to a productive property as an automobile sales facility. Mr. Schuler described the surrounding area. The proposed use of an Automobile Sales facility on the corner is entirely consistent, not at all incompatible with the existing uses along 11<sup>th</sup> Street and the surrounding neighborhood. The code contemplates that this kind of use would be conducted by right in the adjacent CG and CH districts. The only reason we are here today is this is a CS corner which requires a special exception. Ending the abandoned status of this property converting it to productive status with a business operating on it should go a long ways towards improving the public welfare in this area. The site plan meets all bulk and area requirements. The intensity and use of this property and the orderliness of the development of this property is going to be dictated in large part by the fact that it is a small site. It is 150' x 150', this is not going to be Jim Glover Chevrolet. The display area is necessarily limited by the size of the site. The type and location of fencing, landscaping, signage hasn't been determined yet because they haven't bought the site yet. The off-street parking is shown at the south end of the site plan and it meets the requirements of the zoning code as to the number and size of spaces that are permitted there for the intensity of uses. There will be no on site vehicle repair contemplated for this site.

**Comments and Questions:**

Ms. Stead expressed concern about the entrances and exits located on 11<sup>th</sup> Street and on 89<sup>th</sup> East Avenue, especially the two nearest the corner; they are a hazard. She would like to see both of those closed because of the hazard present. Ms. Stead also expressed concern for the entrance/exit's relationship with the school zone; there are lots of kids there, even though there is a sidewalk in the area – on the East side – kids will still walk through the grass and across the bridge on the west side. Mr. Schuler reminded Ms. Stead that 11<sup>th</sup> Street is a divided street in that area so the traffic hazard, to the extent there is one, is minimized quite a bit because there isn't any traffic coming out of either of those 11<sup>th</sup> Street exit points to go west bound on 11<sup>th</sup> Street, they can only turn east bound. Ms. Stead pointed out that the 89<sup>th</sup> East Avenue exit you can turn either direction, and she personally would like to see the access points closed.

Ms. Stead stated that the site will be limited to auto sales only, no on-site storage, no auto repairs. There is a gravel space where they took the underground storage tanks out and that space will need to be asphalt or concrete.

Mr. Tidwell suggested that no 6'-0" tall cyclone fences be allowed because they are not conducive to commerce and suggested that fences on 11<sup>th</sup> Street be restricted to no more than 3'-0" tall. Mr. Schuler stated he did not know what his clients' plans are on fencing because they have not closed on the purchase but he agreed that a tall fence is unsightly.

The board asked Ms. Stead for clarification on the entrance she was previously talking about, and she stated that it is the one coming out onto 89<sup>th</sup> East Avenue, real close to

the intersection. It was pointed out that there are two entrance/exit areas on 11<sup>th</sup> Street and two entrance/exit area on 89<sup>th</sup> East Avenue. Mr. Schuler stated that the south entrance/exit is actually on an adjoining property so if the north entrance/exit on 89<sup>th</sup> East Avenue was closed they would just have to pave another entrance/exit area on the South end of the property; he would be very hesitant to close the north entrance/exit on 89<sup>th</sup> East Avenue. It was established with the board there are two entrance/exit areas located on 11<sup>th</sup> Street and one entrance/exit area located on 89<sup>th</sup> East Avenue.

**Interested Parties:**

There were no interested parties.

**Board Action:**

On **MOTION of Stead**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** the special exception in the auto sales use unit 17, in the CS district, (Section 701) with the following conditions. This approval is for auto sales only; there shall be no outside storage of inoperable or visually damaged vehicles; no outside storage of parts, batteries or other implements; no auto repair on site. Advertising shall be limited to the existing structure and canopy. All driving and parking surfaces are to be asphalt or concrete, specifically that graveled area from which tanks were extracted shall be asphalt or concrete. Any fence shall be no taller than 3'-0" and all fencing, landscaping, screening, lighting, etc. according to code. FINDING: on the following described property

**E 155 N 165 LT 1 LESS E 5 & N 15 FOR STS BLK 1, FOREST ACRES**

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**Case No. 21079-Claude Neon Federal Signs**

**Action Requested:**

Variance of the maximum permitted signs for an office use within a PUD (Section 1103.B.2) from 1 sign to 2 signs; and a Variance of the maximum permitted display surface area permitted for a sign for an office use within a PUD (Section 1103.B.2) to permit an additional sign (wall sign) on the property; located at 2840 East 51<sup>st</sup> Street South.

**Presentation:**

**Ed Horkey**, 1225 North Lansing, Tulsa, OK. The building was built in 1982, a suburban office building; it's very unique in the fact that the PUD property has two ownerships within the PUD property. The back half of the property is actually owned by Case & Associates as apartment buildings. The front half is an office building that is owned by different individuals. The north side of 51<sup>st</sup> Street no longer has apartments, office buildings, restaurants or similar uses; it is currently in the status of the improvements of I-44. When this building was built it was a suburban office building with residences behind it, mixed use around it; 51<sup>st</sup> Street was the visibility and that is how you got to and from it. Now that use has changed significantly with the expansion of I-44, I-44 is going to be coming further to the south of its' present location. I-44's property is

essentially now beginning on the north side of 51<sup>st</sup> Street; the City of Tulsa is also improving 51<sup>st</sup> Street but because of the construction our former City of Tulsa utility easement has moved further back into the property. It had a 14'-0" utility easement and there has been another 16'-0" added to it. The existing ground sign will be going away as part of the City of Tulsa 51<sup>st</sup> Street improvements. This property has a problem with identification in that the building itself is somewhat similar to the construction of the apartments that are behind it and a lot of people's perception is that it is all part of the apartment complex. This is essentially a 14,000 sq. ft. office building with 45% occupancy. The building owners have a lot of hurdles they are trying to overcome because of the 51<sup>st</sup> Street construction, and that will probably be under construction for the next two years. The visibility of the property has gone from 51<sup>st</sup> Street all the way to I-44 triggering the variance of the number of signs and the square footage of the signs. The City of Tulsa has no record of the sign on the awning so to save any difficulty the proposed sign is named as a second sign making the canopy (awning) sign the first sign. The additional square footage will help identify the property itself.

**Comments and Questions:**

Ms. Stead asked if the board was looking at 53.88 sq. ft. total. Mr. Horkey stated that was correct. Ms. Stead stated this building does set quite a way back, approximately 138'-0" back, and the new right-of-way will take about 30'-0" of this, resulting in an approximate setback of 108'-0" from the street. According to the building owners, the City of Tulsa has already condemned the existing ground sign and said they were taking it out.

The board asked if the street was going to remain the same as it is currently, with just the easement to change. Mr. Horkey stated he understood the street is moving to the south a little farther but it is hard to distinguish what is the City of Tulsa 51<sup>st</sup> Street portion and what is the I-44 portion.

Mr. Boulden asked if the sign on the canopy was included in the square footage that has been asked for and it has not been permitted. Mr. Horkey stated the square footage was not included in what he was asking for, and according to his records, the sign on the canopy was not permitted.

Ms. Stead confirmed with Mr. Horkey that there would be no illumination of the new sign.

**Board Action:**

On **MOTION** of **Stead**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the variance of the maximum permitted signs for an office use within a PUD (Section 1103.B.2) from one (1) sign to two signs and approve the variance of the maximum permitted display surface area permitted for a sign for an office use within a PUD (Section 1103.B.2) to permit an additional wall sign on the property. The board has found that there are unique circumstances surrounding this application. The north portion or that applied to the address of 2840 East 51<sup>st</sup> Street South is owned separately from the apartments behind

it. The realignment of I-44 has caused the existing monument sign to be removed. Originally the office building set back 138'-0" from 51<sup>st</sup> Street and now is approximately 108'-0" or less. It is difficult to see when approaching from the east. No ground signs are to be replaced. The signs approved are per exhibit ST-1.0 received today, May 25, 2010; this sign is not to be internally illuminated and no back lighting but may be lit by a spotlight. Following this approval, an application shall be made to amend the PUD before the Tulsa Metropolitan Area Planning Commission. The board has found that the above are reasons of extraordinary and exceptional conditions and 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 or intent of the code or the Comprehensive Plan; on the following described property

**LT 1 BLK 1, BRITTANY SQUARE**

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**Case No. 21081-O'Reilly Automotive, Inc.**

**Action Requested:**

Variance of the building setback requirement from the centerline of an abutting non-arterial street (N. Gary Pl.) from 50 ft. (Section 703) to permit an addition to the south side of an existing building; located at 1456 North Harvard Avenue.

**Presentation:**

**Steven Bent**, Buddy D. Webb Architects, Springfield, Missouri. The applicant is proposing a 1,610 sq. ft. addition to the building. The hardship of this site is the existing building is less than 50'-0" currently from the centerline of the street to the west, therefore, a variance is requested.

**Interested Parties:**

**Tom Murphy**, 3221 South 137<sup>th</sup> East Avenue, Tulsa, OK. Presented concerns related to stormwater runoff. The Board informed Mr. Murphy they have no ability to review stormwater and that it is reviewed by the City Development Services Department during the permitting process.

**Comments and Questions:**

The board stated an applicant could not request a variance based on an economic hardship. The hardship is imposed by the setback requirements from three public streets that surround the building.

The board asked if the addition was going to be any closer to the street than the existing building. Mr. Bent stated that it will be along the same front juxtaposition as the existing building.



Mr. Murphy provided photographs of his property, the public street, and the subject property to show stormwater run-off impacts. Mr. Cuthbertson stated that Mr. Murphy's effort might be better served if the board is willing to grant this variance in the City's Development Services Department with Stormwater Review.

The board stated the addition that is being planned will not increase the amount of impervious surface because it is already paved where the addition is going to go.

Mr. Bent told the board that his firm has hired an engineer to resurvey the property and take a look at the drainage issues. He stated that his firm has already applied for a building permit under the name of O'Reilly.

**Board Action:**

On **MOTION of Stead**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** a variance of the building setback requirement from the centerline of an abutting non-arterial street (North Gary Place) from 50 ft. (Section 703) to permit an addition to an existing building with the following conditions: to retain and maintain the screening fence; the lighting shall remain shielded from the neighborhood; required landscaping by code shall be installed per plan 6.6; FINDING; on the following described property

**LTS 1 THRU 4 LESS BEG NEC TH W15 SE TO PT 15S NECN15 POB FOR ST BLK 1, WILLI MAE ADDN**

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**Case No. 21084-Claude Neon Federal Signs**

**Action Requested:**

Variance of the maximum number of signs permitted in the OM district per street frontage (Section 602.B.4.b) to permit a second wall sign oriented to the 51st St. frontage; located at 2828 East 51<sup>st</sup> Street South.

**Presentation:**

**Ed Horkey**, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, Ok. Cate Chiropractic is requesting a second sign for the building. The building owner has no opposition. There is no ground signage for this building because the original signage was removed in 2008 as part of the City of Tulsa right-of-way expansion. Based on current conditions, there is not going to be the opportunity to have a ground sign available to serve this property. The property is a four-story office building with entrances on three (3) sides of the building – north, west, and south sides. The north entrance now becomes less of a focus due to the highway expansion. The building is owned by Interim Medical, which has a sign on the top of the building that is an identification sign identifying it as Interim Plaza. Cate Chiropractic occupies half of the first floor on the northeast side of the building, and his business is contingent on identification by passersby, walk-in business, in addition to his normal business of

continuing customers. The OM zoning allows for a minimum of 32 sq. ft. sign or 20% of the frontage, and Dr. Cate is asking this square footage be increased to 33.5 sq. ft.

Mr. Horkey asked the board to consider the fact that the demographics of the area have completely changed in the last 12 months.

**Interested Parties:**

No interested parties present.

**Comments and Questions:**

Ms. Stead asked if this sign was going to be illuminated and Mr. Horkey stated there would be none.

The board asked Mr. Horkey if the sign was just for Cate Chiropractic and no one else gets a sign. Mr. Horkey replied he was asked to address Dr. Cate's wishes and that who he is representing. The building owners had no reservations with allowing Dr. Cate to bring this before the Board of Adjustment on their behalf.

Mr. Cuthbertson pointed out that the Cate Chiropractic sign could, by code, be located on the west façade but Cate is asking to have the sign located on the north façade so that is what is triggering the variance request. The code allows for one sign per street frontage.

**Board Action:**

On **MOTION of Stead**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **CONTINUE** Case No. 21084 to the meeting on June 8, 2010 with the owner acknowledging in letter form that he has been given the facts on possible future signage, and that he is fine with it; on the following described property:

**LT 1 & N190 LT 2 BLK 1, VILLA GROVE GARDENS AMD**

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**BOARD MEMBER COMMENTS:**

The board welcomed the new recording secretary, Janet Sparger.

There being no further business, the meeting adjourned at 3:15 p.m.

Date approved: 6/8/10



Chair