

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 910
Tuesday, May 10, 2005, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Chair
Henke
Paddock
Stead
Stephens

**MEMBERS
ABSENT**

**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, May 5, 2005, at 1:54 p.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

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

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

Mr. Dunham, as a matter of record, suggested to the staff to look into writing a procedure for the appointment of two alternates to the Board of Adjustment to serve when a member cannot attend a meeting. He stated this was a suggestion made at the recent BOA Workshop.

Mr. Dunham stated he would like for a statement of the hardship to be a mandatory part of the application and perhaps include it in the agenda that the Board and staff have seen the hardship declared by the applicant.

Ms. Stead requested that in cases for mobile homes, manufactured homes, or modular homes that are not permitted by the code in residential areas, that the applicant submit a picture of the home to be placed on the subject property.

MINUTES

On **MOTION** of **Stead**, the Board voted 5-0-0 (Dunham, Henke, Paddock, Stead, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of April 26, 2005 (No. 909).

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UNFINISHED BUSINESS

Case No. 20025

Action Requested:

Minor Special Exception to permit residential accessory uses and structures on abutting residentially zoned lots which are under common ownership, located: 3523 South Yorktown Avenue East.

Presentation:

James P. Sinko, 3523 South Yorktown Avenue, stated his case was continued from two weeks ago. He proposed to build a small storage building on his lot abutting the lot with their home. He stated that all of the lots are contiguous and are not tied together.

Interested Parties:

Herb Beattie, 3747 South Zunis Avenue, represented the Brookside Neighborhood Association. He stated that the timing issues were resolved and they strongly endorsed the application.

Board Action:

On **Motion** of **Paddock**, the Board voted 5-0-0 (Dunham, Stephens, Paddock, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Minor Special Exception** to permit residential accessory uses and structures on abutting residentially zoned lots which are under common ownership, per plan.

On **Amended Motion** of **Paddock**, the Board voted 5-0-0 (Dunham, Stephens, Paddock, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Minor Special Exception** to permit residential accessory uses and structures on abutting residentially zoned lots which are under common ownership, per plan, 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:

N67.5 S275 W/2 W/2 W/2 W/2 SE NE SEC 19 19 13 0.13AC & LT 3 BLK 1, ADAMS ESTATES, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

Case No. 19975

Action Requested:

Special Exception to permit a Community Center and accessory uses in an RS-3 District - SECTION 401. - Use Unit 5; Special Exception to permit off-street parking to be located on a lot not containing the use - Section 1301.C ; Variance of minimum building setback of 25 ft to 15 ft - Section 404.F.4; Variance to allow parking within the required 25 ft setback from the street to 15 ft - SECTION 1302.B; Variance of the 34% maximum allowable coverage of a parking area in a required front yard - SECTION 1303.D.; Variance of required parking area screening on the north and west property boundaries - SECTION 1303.E., located: 4000 Block W 55th Pl S; W of SW/c of S. 41st W. Ave. and W. 55th Pl. S.

Presentation:

Kevin Coutant, 320 South Boston, Suite 500, represented the Greater CornerStone Community Development Project, Inc. with plans for a proposed community center. He pointed out the irregularly-shaped lot. He submitted a booklet of exhibits (Exhibit A-1). He showed the Board the portion of the property for the center, identified as Parcel A.

Reverend Willard Jones, 5610 South 41st West Avenue, stated he is the Pastor of Greater CornerStone and the CEO of the Greater CornerStone Community Development Project, Inc. The center would be located in the South Haven Community and would service the entire west side. They proposed to have a daycare, latch key program, computer labs and tutoring. They will have room for volunteer services such as dental, medical and health screening services. They plan for a food pantry and clothing distribution. The plans also include an indoor swimming pool and meeting rooms. This will be built with community, corporate, and foundation funding.

Mr. Coutant stated the center would be about 7,000 sq. ft. It is a Use Unit 5 and would have ready access for pedestrians and vehicles. They expect it to be of service to the community that is why they want it within the residential community. He identified the parking lot as Parcel B. They requested a variance of 15 ft. on the side yard setback, and noted there is a platted unimproved alley. It is 25 ft. wide and provides a built-in setback. Mr. Stephens asked if they planned to vacate the alley. Mr. Coutant replied they don't have a current plan to vacate it. They also asked for a variance of the maximum allowable coverage. They sought a variance of the screening of the parking lot on the north and west.

Mr. Coutant listed the shape of the land, railroad, and alley as hardships. Mr. Dunham asked if they would object to a tie agreement on the second special exception, to which Mr. Coutant said they would not. He also suggested limiting the last variance to Parcel B only and Mr. Coutant agreed that was the intent. Ms.

Stead asked if there was an entrance to the center on the south. She suggested they needed to address some sidewalks.

Jim Healy, 324 East 3rd Street, with the architectural firm for this project, showed the plans pointing out the route from the parking lot to the entrance.

Interested Parties:

Catherine Wall, 4156 South St. Louis Avenue, stated she owns undeveloped property to the north, Lots 14, 15, 16, 17, 18 and 19. She pointed out that the city has not constructed 43rd West Avenue north of West 56th Street. You cannot access her property except by West 55th Place. She expressed concern for the congestion of traffic around the community center.

Chris Medlock, City Councilor, District 2, 2919 East 82nd Place, stated a positive effort to bring stability and interest into the community. He was in support.

Gary Casteel, 6235 East 35th Street, Director of Habitat for Humanity, stated they are in support of this application. He gave a little history of the area and added they plan to build some more houses in this area.

Weldon Tisdale, 1709 North Madison, Senior Pastor of Friendship Church, stated support of the application. He described it as a victory for the community and the City of Tulsa.

Diane Perry, 3729 West 55th Place, expressed support of the application as greatly needed in this community.

Comments and Questions:

Mr. Henke addressed the staff suggestion of a four-foot screening fence. Mr. Cuthbertson responded that he added that, since in some cases neighbors complained of vehicle headlights shining into their homes from a parking lot.

Board Action:

On **Motion** of **Henke**, the Board voted 5-0-0 (Dunham, Paddock, Stephens, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a Community Center and accessory uses in an RS-3 District - SECTION 401. - Use Unit 5, per plan, 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 **Motion** of **Henke**, the Board voted 5-0-0 (Dunham, Paddock, Stephens, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit off-street parking to be located on a lot not containing the principal use - Section 1301.C, with condition for a tie agreement, per plan, 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

Motion of Henke, the Board voted 5-0-0 (Dunham, Paddock, Stephens, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of minimum building setback - Section 404.F.4, of 25 ft. from abutting properties in an R district, finding that by reason of extraordinary or exceptional conditions particular to the land, in this case shape and size, would result in an unnecessary hardship, and finding it will not cause substantial detriment to the public good or impair the purpose, spirit and intent of the code or Comprehensive Plan,

On **Amended Motion of Henke**, the Board voted 5-0-0 (Dunham, Paddock, Stephens, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of minimum building setback from 25 ft. to 15 ft. - Section 404.F.4, from abutting properties in an R district, finding that by reason of extraordinary or exceptional conditions particular to the land, in this case shape and size, would result in an unnecessary hardship, and finding it will not cause substantial detriment to the public good or impair the purpose, spirit and intent of the code or Comprehensive Plan;

On **Motion of Henke**, the Board voted 5-0-0 (Dunham, Paddock, Stephens, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** to allow parking within the required 25 ft setback from the street to 15 ft - SECTION 1302.B measured from the property line, finding that by reason of extraordinary or exceptional conditions peculiar to the land, in this case shape and size, would result in an unnecessary hardship, and finding it will not cause substantial detriment to the public good or impair the purpose, spirit and intent of the code or Comprehensive Plan;

On **Motion of Henke**, the Board voted 5-0-0 (Dunham, Paddock, Stephens, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** to allow more parking than the 34% maximum allowable coverage of a parking area in a required front yard - SECTION 1303.D., finding that by reason of extraordinary or exceptional conditions peculiar to the land, in this case shape and size, would result in an unnecessary hardship, and finding it would cause detriment to the public good or impair the purpose, spirit and intent of the code or Comprehensive Plan ;

On **Motion of Henke**, the Board voted 5-0-0 (Dunham, Paddock, Stephens, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** to eliminate the screening requirement around parking lots abutting R districts as this relates to Parcel B, per plan, the north and west property boundaries - SECTION 1303.E., finding that the literal interpretation of the Code would be detrimental to the development of this property, per plan on all of the above variances and special exceptions, on the following described property:

LTS 1 2 BLK 13, LTS 3 4 & 5 THE E.15'OF LT 6 BLK 13, W.10'OF LT 6 & ALL LTS 7 & 8 BLK 13, LTS 9 & 10 BLK 13, LTS 18 19 & 20 BLK 13, LT 21 BLK 13,

LT 22 BLK 13, LT 23 BLK 13, LT 24 BLK 13, LTS 11 THRU 17 BLK 27,
OPPORTUNITY HGTS, City of Tulsa, Tulsa County, State of Oklahoma

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Mr. Paddock out at 2:06 p.m.

Case No. 20033

Action Requested:

Special exception for approval of an amended site plan previously approved 5/27/03 (BOA-19583), located: 3901 North Lewis Avenue East.

Mr. Paddock returned at 2:08 p.m.

Presentation:

Corey K. Nichols, 1517 East Admiral Boulevard, indicated that the plans called for a 50' x 160' building. The company made a package for a 60' x 160' building, and did not make a 50' x 160'.

Comments and Questions:

Mr. Dunham verified that the case was advertised properly. He also noted that the previous approval by the Board included a condition for an 8' screening fence on all four sides with a pleasing appearance to the surrounding properties, and that the fence has not been built. Mr. Nichols replied that they did not want to put the screening fence up until the building is completed to accommodate the large equipment used in construction. Mr. Dunham reminded him that any approval granted now would include the same screening. Mr. Stephens asked the applicant if they would agree to a time limitation on constructing the fence. Mr. Ackermann informed the Board that before he can get a building permit the plans have to show the 8' fence and the fence must be built before he can obtain a certificate of occupancy.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Paddock**, the Board voted 5-0-0 (Dunham, Stephens, Paddock, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** for approval of an amended site plan previously approved 5/27/03 (BOA-19583), for a building of 60' x 160', 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:

intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

NE NE & N/2 SE NE LESS BEG NEC NE TH W175 S50 E125 S125 E15 S1805 E35 N1980 POB SEC 28 19 13 58.206ACS, ALLISON ACRES, ARROWWOOD, GREENHILLS, PATRICK HENRY, SADDLELANE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20035

Action Requested:

Special Exception to permit a church and accessory uses in an RS-3 District - SECTION 401. Principal Uses Permitted in the Residential Districts - Use Unit 5, located:1302 South 119th Avenue East.

Presentation:

Claudia Streetman, 7726 South St. Louis, represented the applicant, Omar Flores. She stated the property is located next to a church on the south, a retaining wall to the north, and to the west is a detention facility. The subject property is about five acres.

Comments and Questions:

Ms. Stead noted the church plans to use the existing house temporarily. She expressed concern that it does not have a sewer connection and the house is in poor condition. Ms. Streetman replied that it is on a septic and they plan to fix up the house.

Interested Parties:

Darrell DeBord, 3303 South 102nd East Avenue, stated he is the Pastor of the Braden Park Baptist Church. They are the sponsoring church for the applicant. They endorse the application.

Jim Mautino, Councilor, District 6, stated he was contacted by some of the neighbors. They are concerned about the number of churches and traffic in the area. He pointed out the location of the existing churches.

Omar Flores, 10847 East 33rd Place, stated they would be willing to change the hours of their services if it would help the neighborhood. They contacted neighbors in a 300' – 400' radius of the subject property and found most of them to be in support. Mr. Stephens asked the size of the congregation. They have 50 church members

Board Action:

On **Motion** of **Paddock**, the Board voted 5-0-0 (Dunham, Stephens, Paddock, Henke, Stead "aye"; "nay"; no "abstentions"; no "absences") to **APPROVE** a

Special Exception to permit a church and accessory uses in an RS-3 District - SECTION 401. Principal Uses Permitted in the Residential Districts - Use Unit 5, 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 & PRT VAC STREET BEG NWC LT 1 TH N25 E228.18S25 W228.18 POB BLK 6, LT 2 & S25 VAC STREET ADJ ON N BLK 6, LT 3 & PRT VAC STREET BEG NWC LT 3 TH S305.07 W25N330.07 E228.18 S25 W203.18 POB BLK 6, ELM HURST, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20036

Action Requested:

Special Exception to allow a wrecker service in an IL zoned district (901), located: 3333 South Southwest Boulevard West.

Presentation:

Ben Matthison, 1212 East 28th Street, represented the applicant, J. Clay McPherson. He stated the current lessee is finishing their 1st year of lease. He pointed out other businesses in the area with similar uses.

Comments and Questions:

Mr. Dunham noted they did not ask for relief of the paving requirements. Mr. Matthison replied that he was not aware of those requirements. He stated they would be willing to pave for parking.

Interested Parties:

Tom Affelt, 601 South Boulder, Suite 600, stated his objection to the application. He is one of the trustees of Troy L. Miles, Revocable Living Trust, which owns the property immediately to the north. They consider it to be a substantial departure from the prior rulings of this Board. He pointed out there is no paved surface and grass is growing under the vehicles and around them. He submitted photographs of the conditions (Exhibit B-1). They opposed the use, even if they paved and put up a screening fence.

Applicant's Rebuttal:

Mr. Matthison pointed the dumpsters on one lot, salvage on another, and did not consider their business to appear much different than so many of the other lots.

Board discussion regarding landscaping, screening and paving ensued.

John Clay McPherson, the applicant, stated he has owned this property since 1980. He stated they would pave the lot, as required. He called their attention to the empty lots along Southwest Boulevard.

rebuilt. He also reminded the Board that his home would be a modular home not a mobile home and it would be permanent.

Board Action:

On **Motion** of **Stead**, the Board voted 4-1-0 (Dunham, Stephens, Henke, Stead "aye"; Paddock "nay"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a mobile home in an RS-3 district - SECTION 401. Principal Uses Permitted in Residential Districts - Use Unit 9, with conditions: existing home to be torn down and existing garage be restored to useable condition; **Special Exception** to extend the 1 year time limit to 25 years - SECTION 404.E.1 - Use Unit 9 with a permanent foundation/skirting, 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 5, N1/2 LT 2 BLK 5, RED FORK, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20038

Action Requested:

Special Exception to permit a private school (Use Unit 5) in an RM-1 district (Section 401); and a Variance of the required minimum lot area of one acre for a school (Section 1205.B.2.c), located: 2935 East Pine Street.

Mr. Paddock out at 3:25 p.m.

Presentation:

Jamie Broom, 1436 North Denver, proposed to open a small private school. They are temporarily using a church facility but they need a more permanent facility.

Mr. Paddock returned at 3:27 p.m.

Mr. Dunham out at 3:37 p.m.

She stated it would be in harmony with the spirit and intent of the zoning code. She pointed out the elementary school, church and park in the area. She submitted a sketch of the proposed design and sign plan (Exhibits D-1 and D-2). Ms. Broom assured the Board that any security lights would be directed toward the building. The hours of operation would be from 7:30 a.m. to 5:30 p.m, to include aftercare. There would be no late night functions or need for ball fields. Vehicles would enter from Pine and exit onto Evanston on a one-way drive.

Mr. Dunham returned at 3:30 p.m.

She informed the Board that they will not have large events or extracurricular activities that would need the one acre of property as required by the Zoning Code.

The current student enrollment is 21 with a staff of four. The maximum enrollment would be 48.

Comments and Questions:

Ms. Stead asked about the ages of the students. Ms. Broom replied that they will teach Pre-Kindergarten 3 to the 5th grade. Ms. Stead noted there was no sidewalk on Evanston and the plans did not show one.

Interested Parties:

Sue Davenport-Lindsay, 1520 North College Avenue, stated she is not adverse to the school. They were concerned that the property is only a third of an acre. She informed the Board that in September 2001, the City of Tulsa proposed to build a retention pond in that area. Mr. Dunham pointed out that the current zoning would allow multi-family dwellings and asked if she would prefer that to a 3,000 sq. ft. school with limited hours. Ms. Lindsay replied that she would. She submitted a petition of opposition (Exhibit D-3).

Applicant's Rebuttal:

Ms. Broom introduced the owner of the land, Dorothy Morman. She purchased the land in 2004 and the City has not approached her to purchase the land. Mr. Dunham asked if they had talked with the neighbors. Ms. Broom replied they had planned to show their plans to the neighborhood. They are planning a beautiful building with landscaping and they do not want to ruin the neighborhood. Mr. Dunham asked the applicant and interested party if they felt there was anything to be gained by a continuance. They replied they would be agreeable to a continuance to discuss this application.

Board Action:

On **Motion of Paddock**, the Board voted 5-0-0 (Dunham, Paddock, Stephens, Henke, Stead "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20038 to the meeting on May 24, 2005, regarding the following described property:

LT 4 BLK 1, EVANS HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20040

Action Requested:

Variance of the required 100' setback from the centerline of N. Sheridan Rd. to 63' (Section 903) to permit an expansion of the existing facility, located: 3213 North Sheridan Road.

