

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 925
Tuesday, January 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, Secretary
Stead
Stephens
Tidwell

**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, January 5, 2005, at 9:56 a.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. Henke arrived at 1:02 p.m.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20171

Action Requested:

Variance to permit one additional sign in the AG district (Section 302.B.2), located: 10901 South Yale Avenue East.

Presentation:

A timely request had been made for a continuance to January 24, 2006.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20171 to the meeting on January 24, 2006.

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MINUTES

On **MOTION** of **Stead**, the Board voted 5-0-0 (Dunham, Henke, Stead, Stephens, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of December 13, 2005 (No. 924).

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NEW APPLICATIONS

Case No. 20166

Action Requested:

Variance of required rear yard from 20 ft to 5 ft to permit an addition (Section 403); and a Variance of the minimum 4,000 sq. ft. of livability space required per dwelling unit (Section 403), located: 1573 East 19th Street South.

Presentation:

Steve Schuller, 100 West 5th Street, Suite 500, represented Brian Freese Architecture and the owners, Nathan and Karen Harmon. He informed the Board the lot was the result of a lot-split in 1941. The house was probably built about that time. Mrs. Harmon purchased the house in 1995 and now they proposed to add a combination bedroom, study and a bathroom at the rear of the house. He pointed out the unusual shape of the lot, and that the addition would encroach into the 20' rear yard setback by 14 $\frac{3}{4}$ ' at the most and at the least 6'. The rear lot line is on a diagonal. The few other lots in the vicinity with the diagonal rear lot line are much deeper lots and do not have the same problem. Mr. Schuller stated it appears to be the smallest lot on the block. The livability space would be 3,341 square feet, which is about 16% less than allowed by the zoning code. A site plan was provided and two letter of support (Exhibits A-1 and A-2). He added that it is not out of character for the neighborhood.

Comments and Questions:

Mr. Dunham asked if the plan submitted would be the one they use, to which Mr. Schuller replied it is.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of required rear yard from 20 ft to 5 ft to permit an addition (Section 403) and a **Variance** of the minimum 4,000 sq. ft. of livability space required per dwelling unit (Section 403), per plan, finding the literal enforcement of the terms of

the code would result in an unnecessary hardship, and that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district; and finding it would not cause substantial detriment to the public good or impair the purpose, spirit and intent of the code or Comprehensive Plan, on the following described property:

W 61 LT 11 BLK 2, SWAN PARK, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20170

Action Requested:

A Special Exception to permit a used car lot (Use Unit 17) in a CS district (Section 701) and a Variance to permit open air storage and display of merchandise offered for sale within 300 ft. of an adjoining R district (Section 1217.C.2), located: 10875 East Admiral Place North.

Presentation:

Robert Nichols, 601 South Boulder, Suite 400, represented the applicant, Geraldo Romeros. He pointed out an unusual zoning configuration, in which the CS District is segregated somewhat from the corner by an RS-3 District. He stated that only detailed cars and trucks would be displayed outside. He added that the hardship is the unusual zoning pattern. Mr. Nichols stated the property owner of the RS-3 property to the east has not objected to the application. Mr. Romeros has owned the property for a couple of years and made substantial improvements.

Interested Parties:

Wayne Bohanon, 10617 East 1st Street, represented the Wagon Wheel Neighborhood Association, Inc. and stated they opposed the application. He stated concern for other car lots in the area that changed to salvage yards. He complained of a history of tall grass, old tires and trash on the property. He asked the Board if this application was approved that it be with strict conditions. They suggest restrictions on lighting, fencing along Admiral Place, hours of operation, no junk cars and all repairs made inside the building. He reminded the Board of the zoning code restricting open air display or storage in a CS district within 300' of an adjoining R district. He asked for a denial of this application.

Nancy Creighton, 245 South 120th East Avenue, stated she is President of the Western Village Neighborhood Association. She reminded the Board that a car lot was denied in 1999 and she could not see that anything has changed to make it more acceptable. She expressed objections as previously mentioned. She added there is not much frontage to display cars. Their association also requested restrictions, should the application be approved. They requested the application be denied.

Julia Beckmore, 10845 East Admiral Place, stated she owns Wagon Wheel Mobile Home Park. She complained of the trash currently present along the rear fence line. She could not communicate with the people she saw on the property as they said they could not speak English. The residents of her park were opposed.

Teresa Buchert, 542 South 127th East Avenue, represented South and East Alliance of Tulsa and they have been leading in a revitalization project. Phase I was just published and Phase II should be published in the next few months. It is for the State Highway 412 Corridor Project from Memorial to 193rd East Avenue. The business owners and residents have been urged to promote a more positive approach for the improvement of the area. She informed the Board that they have given "Good Neighbor" awards in the past to five businesses that surround this property. She stated they appreciate the improvements the owner has made, but they do not believe this project is conducive to a positive projection of the area. They are opposed to the application.

Jim Mautino, City Councilor for District 6, stated he has received several calls regarding this application. He mentioned the negative history of this property. He noted the paving that may have been placed without a permit or a license to use the City easement. He expressed concern for storage of inoperable cars.

Applicant's Rebuttal:

Mr. Nichols stated the applicant has made substantial improvements and cleaned it. The applicant would be open to the conditions that have been suggested. They are not interested in operating an auto salvage and they would not have any inoperable vehicles on the property. They welcome Neighborhood Inspections to review their property. He added they would be open to a time limited approval to allow the applicant to show compliance.

Comments and Questions:

Ms. Stead asked that he more clearly define the hardship. Mr. Nichols replied that it was the zoning designations in place. He again pointed out the segregation of the subject property from the CS property to the east. He stated it is the narrowness caused by a political act. Ms. Stead asked what is behind the fence to the north. He responded that at this time it has been all cleared. Mr. Romeros stated it has all been cleaned up, as of two or three months ago. She also asked if they poured asphalt over the City right-of-way. Mr. Romeros stated it was to make it look nice, not to park cars. Board members expressed concerns that the asphalt was poured without a permit and in the right-of-way. Mr. Henke also suggested this property is not well-suited for the use. Mr. Stephens was concerned that on either side of the property is zoned residential within the 300' radius.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Special Exception** to permit a use car lot (Use Unit 17) in a CS district (Section 701) and a

Variance to permit open air storage and display of merchandise offered for sale within 300 ft. of an adjoining R district (Section 1217.C.2), on the following described property:

W/2 W/2 E/2 LT 1 LESS S75 FOR ST SEC 6 19 14 2.29AC, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20172

Action Requested:

Variance of the required side yard from 5 ft. to 1 ft. to permit a lot-split (Section 403), located: 912 South Canton Avenue East.

Presentation:

Doug Embrey, 2316-D South Garnett, stated he is an attorney for the property owner, Mr. Marquis. He informed the Board that Mr. Marquis and his son-in-law, who owns a lot two lots south of Mr. Marquis, were present. The subject property is large but oddly-shaped south of White City Park. Tract A is 150' x 140' lot and they want to provide access for Tract B and to correct encroachments of existing buildings. They are willing to remove the carport. A lot-split plan was provided (Exhibit B-1).

Tim Simmons, 920 South Canton, stated they had agreed with his father-in-law to split the property.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the required side yard from 5 ft. to 1 ft. to permit a lot-split (Section 403), per the lot-split plan, finding the possibly illegal structures; finding the literal enforcement of the terms of the code would result in an unnecessary hardship, and that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district; and finding it would not cause substantial detriment to the public good or impair the purpose, spirit and intent of the code or Comprehensive Plan, on the following described property:

LT 1 BLK 29, WHITE CITY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

Case No. 20173

Action Requested:

Special Exception to permit a carport in the required front yard (Section 210.B.10) located: 4735 South 25th West Avenue.

Presentation:

Nancy Rosencutter, 4735 South 25th West Avenue, stated that her husband built the carport about three years ago. She did not know it was out of compliance and she asked for a special exception. She also pointed out that the yard is narrow.

Comments and Questions:

Mr. Dunham noted the side shield on the carport and informed Ms. Rosencutter that carports are supposed to be open so you can see through them. She provided a site plan and photographs of other carports in the neighborhood (Exhibits C-1 and C-2). Ms. Stead responded that the one across the street is legal and hers is in the City right-of-way. Mr. Alberty informed her that the carport cannot extend more than 20' from the back of the required yard, which means it would have to be set five feet back from the right-of-way.

Interested Parties:

Weeta Compton-McCoy, 2324 West 47th Place, was concerned for the shield on the carport and the large vegetation and landscaping at the corner. She expressed concern that it blocks the view of traffic at the corner. She does not object to the carport.

Board Action:

On **Motion of Tidwell**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a carport in the required front yard (Section 210.B.10), subject to removal of the north side shield and removal from the City right-of-way, 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 2, DOKES HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20174

Action Requested:

Variance of the minimum frontage requirement in an IL district from 150 ft. to 0 ft. (Section 903) to permit a lot split, located: 11702 East 51st Street South.

Presentation:

Tom Christopoulos, 14664 South 52nd East Avenue, Bixby, Oklahoma, proposed to split his property at the creek that divides it. There is not an access from a public street to the rear property. He stated they plan to build a bridge over the creek. The only access he has is the 65' to East 51st.

Mr. Henke out at 2:17 p.m.

Comments and Questions:

Mr. Dunham asked what he planned to do with the property south of the creek. He replied he would sell it or build something on it. Mr. Dunham informed Mr. **Christopoulos** that he would have to build a bridge to city standards. He added that he would have to provide a legal access to obtain a lot-split.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Henke**, the Board voted 5-0-0 (Dunham, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20174 to the meeting on February 14, 2006, on the following described property:

LT 1 LESS BEG 65W NEC TH W375 S381.9 E375 N381.9 POB BLK 1, HATHAWAY CENTER, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20175

Action Requested:

Variance of required 75 ft setback in an IL district from an R district to 13 feet (Section 903), located: 4800 Block of South Mingo Road.

Presentation:

Bob Restor, 207 North Main, Sand Springs, Oklahoma, represented Pat Coyle with Bicycles of Tulsa. Mr. Coyle plans to build a bicycle shop/warehouse at 48th and Mingo. The PSP/City of Tulsa has an easement that bi-sects the property. This request is to maintain the maximum distance from the easement. The north side of the building will be the delivery entrance and the south side will be the sales shop. Mr. Restor indicated it would be compatible with the surrounding uses. A site plan and photographs were submitted (Exhibits D-1 and D-2).

Interested Parties:

Chuck Hanson, 5918 East 31st, stated he is an attorney for Miss Helen's Private School. He indicated the hardship is self-imposed and suggested the applicant flip the plans in the opposite direction. He submitted a plan to describe his

suggestions (Exhibit D-3). This would create a 90' easement on the north and 71 ¾' on the south and eliminate the need for a variance.

Comments and Questions:

Mr. Restor responded to questions from the Board regarding the input from Mr. Hanson. He explained that it would mean the loading, traffic and noise would then be on the south nearest the school.

Ms. Stead asked to hear from the builder. Ray Miller, III Cor, LLC, P.O. Box 4801, Tulsa, Oklahoma, stated the main reason for the plans orientation was to have the warehouse on the north end. He did not want to encumber any additional area that could be used for expansion. He wanted to leave space near the easement for future improvements within the easement.

Mr. Alberty stated the RS-3 zoning is the anomaly. He added that if it was zoned according to the use they would not need relief.

Board Actions:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of required 75 ft setback in an IL district from an R district to 13 feet (Section 903), per plan, finding such extraordinary exceptional conditions peculiar to this land, mainly the previous zoning, the literal enforcement of the terms of the code would result in an unnecessary hardship, and that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district, on the following described property:

PRT LTS 1 & 2 & ALL LTS 3 & 4 & PRT VAC STREETS &ALLEYS BEG SWC LT 3 TH E183.71 N75 W183.71 S75 POB BLK 40, BEG NWC SW SW TH S208.75 E208.71 N208.75 W208.71 POB LESS W50 FOR ST SEC 30 19 14 .761AC, ALSUMA, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20176

Action Requested:

Variance of the required rear yard from 40 ft to 38 ft.; a Variance of the average lot width from 200 ft to 183 ft.; and a Variance of required 15 ft side yard (tract 2) to permit a lot split (Section 303), located: 10717 South Delaware Avenue East.

Ms. Stead recused herself from Case No. 20176.

Presentation:

Richard Stunkard, 10717 South Delaware, indicated they need a lot-split to allow a family member to build a house on the rear of the property. The property was purchased from a pipeline company and the irregular shape is caused by a

pipeline easement. He pointed out that South Delaware cuts through the west 1/3 of the property. He stated there would be a five-foot setback between the storage building and the property line on the west; and a fifty-foot right-of-way to the street.

Ms. Stead out at approximately 2:52 p.m.

Comments and Questions:

Mr. Dunham questioned the reasoning for the way they were trying to split the property. Mr. Stunkard responded they were trying to get as close to the 200' average lot width while meeting other bulk and area requirements. The Board also suggested that they might be more inclined to approve relief to permit a more traditional looking lot-split. Mr. Dunham stated this is a rapidly growing area. He suggested re-zoning was a more appropriate way to accomplish their goals.

Ms. Stead returned at 2:58 p.m.

Interested Parties:

There were no interested parties who wished to speak.

Board Actions:

On **Motion of Henke**, the Board voted 4-0-1 (Dunham, Henke Stephens, Tidwell "aye"; no "nays"; Stead "abstained"; no "absences") to **CONTINUE** Case No. 20176 to the meeting on February 14, 2006, to give the applicant time to request additional relief, on the following described property:

PRT NE SE BEG NWC S/2 NE SE TH E1186.25 SW 272.66SW628.71
SW385.06 N450 POB LESS .479AC FOR RD SEC29 18 13 5.37ACS, City of
Tulsa, Tulsa County, State of Oklahoma

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Case No. 20177

Action Requested:

Verification spacing from another family day care home in an RS-4 District (Section 402.B.5.g), located: 216 East Tecumseh Street North.

Mr. Stephens out at about 2:59 p.m.

Presentation:

Angie Alexander, 216 East Tecumseh Street, surveyed the neighborhood and did not find another daycare home in the 300' of her home.

Interested Parties:

There were no interested parties who wished to speak.

Board Actions:

On **Motion of Henke**, the Board voted 4-0-0 (Dunham, Henke Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** the verification of spacing from another family day care home in an RS-4 District, on the following described property:

LOT-10-BLK-10, MEADOWBROOK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20178

Action Requested:

Appeal of determination of Neighborhood Inspector that a business is being conducted on the property, located: 3445 South 111th Avenue East.

The applicant was not present and the case was moved to later on the agenda.

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Mr. Stephens returned approximately 3:02 p.m.

Case No. 20179

Action Requested:

Special Exception to allow a carport in the front yard; a Variance of the allowable 400 sq. ft for carport to 470 sq. ft.; and a Variance to allow carport to extend more than 20 feet from the rear of the front yard. Section 210.B.10.a & c -, located: 8513 East 32nd Street South.

Presentation:

Bryon Lentz, 8513 East 32nd Street, came to the hearing to present his case.

Comments and Questions:

Ms. Stead asked for the hardship. Mr. Lentz replied that he was not sure how to present a hardship. He admitted he built a carport without a permit having been poorly advised that no permit was needed. He sized the carport to fit their vehicles. He wanted to keep the carport but was willing to comply with the code. He mentioned that the neighbor's stockade fence is closer to the street than the carport.

Interested Parties:

One letter of support and one letter of opposition (Exhibits E-1 and E-2) were given to the Board.

Board Actions:

On **Motion of Stead**, to **DENY** a **Special Exception** to allow a carport in the front yard. Mr. Dunham questioned the motion.

Ms. Stead withdrew her motion.

On **Motion** of **Henke**, the Board voted 4-1-0 (Dunham, Henke Stephens, Tidwell "aye"; Stead "nay"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow a carport in the front yard; and to **DENY** a **Variance** of the allowable 400 sq. ft for carport to 470 sq. ft.; and a **Variance** to allow carport to extend more than 20 feet from the rear of the front yard. Section 210.B.10.a & c, for a lack of hardship, on the following described property:

LT 19 BLK 5, LONGVIEW ACRES, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20180

Action Requested:

Variance to permit two dwellings on one lot of record; temporarily for a maximum of two years (Section 207), located: 2418 East 51st Street North.

Presentation:

Patrice Yarbrough, 2418 East 51st Street North, came to present her case. A site plan was provided (Exhibit F-1).

Interested Parties:

Dwain Midget stated support of the application.

Comments and Questions:

Ms. Stead asked if the old dwelling would be removed. Ms. Yarbrough replied they would remove the existing dwelling.

Board Actions:

On **Motion** of **Henke**, the Board voted 5-0-0 (Dunham, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** to permit two dwellings on one lot of record; temporarily for a maximum of two years from January 10, 2006, finding the literal enforcement of the terms of the code would result in an unnecessary hardship, and that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district, and finding it 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:

E 323 of the E 1056 N/2 N/2 NW SW LESS N16.5 & E424 & S8.5 N25 E66 W330 N/2 N/2 NW SW SEC 8 20 13, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20181

Action Requested:

Special exception to permit a carport in the required front yard in an RS-3 zoned district - Section 210.B.10, located: 1614 East 32nd Street South.

Presentation:

Roger Kiefer, 1614 East 32nd Street, stated he and his wife and his mother live there. They have completed extensive remodeling on the interior and exterior. They have three cars and a two-car garage. He discovered that the code does not allow enough room to build a carport as he planned, to appear as part of the house and still cover the car.

Comments and Questions:

Mr. Dunham commented that to allow this relief would be a detriment to the neighborhood. Mr. Stephens noted it is a very good design.

Interested Parties:

There were numerous interested parties present. Mr. Dunham offered them the opportunity to sign-in and designate their support or protest (G-3). Several letters of support and protest were provided (Exhibits G-1 and G-2).

Board Actions:

On **Motion** of **Henke**, the Board voted 5-0-0 (Dunham, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Special Exception** to permit a carport in the required front yard in an RS-3 zoned district - Section 210.B.10, finding a special exception would set a negative precedent in the neighborhood; and finding it would not be in harmony with the spirit and intent of the code and would be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

LOT-7-BLK-2, PARK TERRACE, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20178

Action Requested:

Appeal of determination of Neighborhood Inspector that a business is being conducted on the property, located: 3445 South 111th Avenue East.

Presentation:

Mr. Cuthbertson informed the Board that he attempted to contact the applicant and could not reach him. He noted the Neighborhood Inspector also was not present and they may have resolved the issue.

Comments and Questions:

Mr. Dunham suggested they continue the case for two weeks.

Board Actions:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20178 to the meeting on January 24, 2006, on the following described property:

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There being no further business, the meeting was adjourned at 3:20 p.m.

Date approved: 1/24/2006.


Chair