

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 939
Tuesday, August 8, 2006, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

MEMBERS

PRESENT

Dunham
Henke, Chair
Stead, Vice Chair
Tidwell, Secretary

MEMBERS

ABSENT

Stephens

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, August 3, 2006, at 1:41 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.

MINUTES

On **MOTION** of **Tidwell**, the Board voted 3-0-0 (Henke, Stead, Tidwell, "aye"; no "nays"; no "abstentions"; Dunham, Stephens "absent") to **APPROVE** the Minutes of July 25, 2006 (No. 938).

At Mr. Henke's request, Mr. Cuthbertson informed the public that the Board must have three votes in the affirmative to approve a case. Since only three members were present at this time the Chairman has extended the courtesy to allow an applicant to request to continue their case to the next scheduled Board meeting.

Dunham arrived at 1:04 p.m.

NEW APPLICATIONS

Case No. 20317

Action Requested:

Special Exception to allow a communications tower (Use Unit 4) in an AG district (Section 301); Special Exception to reduce the required setback from adjoining AG zoned districts (Section 1204.C.3.g.1), located: 4300 East 91st Street South.

Presentation:

Gregory Ferris, represented T-Mobile USA, and stated that Casey Crow one of their engineers was present also. A site plan and letters were provided (Exhibits A-1 and A-2). They proposed to place a 120 ft. monopole tower, which appears as a light standard. He pointed out that the subject property is heavily wooded and stated they could have met the setbacks to the west but it would have removed the cell tower from the tall trees. He noted the closest residential structures are quite a distance to the south, to the west is a cemetery and office property to the east. He informed the Board that the pole will be designed for collocation. Ms. Stead asked if collocation would be inside the pole. Mr. Ferris replied it would not. He stated the cemetery access would be all that they need. He referred them to the propagation maps in the agenda packet to illustrate the need for this tower. They evaluated the tower near 91st and Yale but it did not meet the requirements for collocation, utility cabinets or propagation. Mr. Henke asked if the communication was in written form. Mr. Ferris replied that it was verbal.

Comments and Questions:

Mr. Ferris responded to questions from the Board, stating they will build an 8 ft. solid wood fence, with two security wires, and a wood gate with lock. He explained that interior collocation would require a pole larger in diameter.

Casey Crow, 9805 Larkspur Lane, Oklahoma City, Oklahoma, stated he is an RF engineer for T-Mobile. The flush mounted antennas on the flag pole design reduces the coverage area.

Interested Parties:

Greg Jennings, 2260 South Troost, asked for a camouflage design for this tower. He stated that houses are only 35 ft. high and 120 ft. is a significant difference. He did not consider this to be camouflaged and to be obviously out of place. He suggested the pine or magnolia tree designs, which could be as tall as 150 ft.

Applicant's Rebuttal:

Mr. Ferris responded that when they put up towers in states where there are evergreens, that design is practical. When they are placed where that type of tree is not natural it would be just as obtrusive. They have to be above the trees to provide coverage. He stated it has been their experience that the silver pole is the least visible on the horizon. They would be willing to paint it brown to blend in better if the Board required. He commented that it is always cheaper to collocate

than to build a tower and it is their first choice. He stated that he would provide a letter for the case file that shows they comply with the FCC regulations for RF emissions.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Special Exception to allow a 120 ft. communications tower (Use Unit 4) in an AG district (Section 301); Special Exception to reduce the required setback from adjoining AG zoned districts (Section 1204.C.3.g.1), finding it meets all of the requirements listed in Section 1204. A, B, C and D; subject to the letter of June 24, 2006 from Ferris Consulting and the three site plans on pages 2.10, 2.11 and 2.12 of the agenda packet; the applicant to provide a letter to INCOG staff showing RF emissions are within the federal guidelines; a light pole design; site to be screened by an 8 ft. wood fence with two security wires, and wood gate with lock; no landscaping necessary, 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:

In the City of Tulsa, Tulsa Country, the State of Oklahoma: A parcel of land in the Northwest Quarter of the Northeast Quarter of Section 21, Township 18 North, Range 13 East: Beginning at the Northwest Corner of the aforesaid Quarter; Thence East 814' and South 827.15' to the Point of Beginning; Thence West 790'; Thence South 429.9'; Thence East 790'; Thence North 429.9' to the Point of Beginning, the same as the Southeast Corner of the Vacated Booker T. Washington Memorial Park, Tulsa County, State of Oklahoma

Case No. 20318

Action Requested:

Special Exception to permit auto sales in a CS district (Section 701); a Variance of the requirement that no merchandise may be displayed outside within 300 ft. of an R district (Section 1217.C.2); and a Variance of the minimum street frontage required in a CS district from 150 ft. to 116 ft. (Section 703), located: 602 South Sheridan Road.

Presentation:

David Ellis, 6901 South Redbud Avenue, Broken Arrow, Oklahoma, with Modern Star Builders, represented the applicant, **Sam Mouchantaf**. They proposed to use both lots as a car lot. There is an old service station on the subject property. They would like to split the lot in the middle with 116 ft. on each side. They would use the garage to wash the cars on the lot.

Comments and Questions:

Ms. Stead reviewed the requirements Mr. Ellis had not covered in the presentation such as, paving or asphalt on the south lot. She asked if they plan to park cars on the west portion, to which Mr. Ellis replied they do not. She informed him the fence along Sheridan would be limited in height. There was discussion among the Board regarding a hardship.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Special Exception to permit auto sales in a CS district (Section 701); a Variance of the requirement that no merchandise may be displayed outside within 300 ft. of an R district (Section 1217.C.2); with approval limited to a maximum of five years from August 8, 2006; all parking surfaces to be concrete or asphalt; maintain sidewalks on 5th Place and Sheridan; screening on south and west of the entire property; no outside repair of vehicles, storage of parts, batteries, et cetera; any fence along Sheridan limited to 3 ft. in height; having read the criteria for the special exception and variance and finding those requirements are met; and to **DENY** a Variance of the minimum street frontage required in a CS district from 150 ft. to 116 ft. (Section 703), on the following described property:

E195 TR 31, GLENHAVEN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20319

Action Requested:

Verification of the spacing requirement for an Outdoor Advertising Sign from another outdoor advertising sign along the same side of the expressway (Section 1221.F.2), located: 9510 East Broken Arrow Expressway.

Presentation:

John Moody, represented Lamar Central Outdoor, LLC. He submitted a survey for spacing verification (Exhibit B-1). He stated the nearest outdoor advertising sign is 1,670 ft. away.

Interested Parties:

Jonathon Sutton, 4401 South Harvard, represented Guts Church. He indicated that the proposed sign would be in violation of Section 1221.C.8.a and Section 1221.C.2.b of the zoning code relative to the existing sign on the church property.

Comments and Questions:

Mr. Dunham reminded Mr. Sutton this hearing is for the verification of spacing only. Mr. Cuthbertson pointed out that the zoning code sections referred to by Mr. Sutton are requirements for business signs but this is an outdoor advertising sign, which has to comply with Section 1221.F. Mr. Dunham stated they have not asked for any relief from the zoning code. Mr. Sutton stated they obtained a copy of the whole case file and they did not receive a copy of a site plan or the survey.

Applicant's Rebuttal:

Mr. Moody stated that the sign Mr. Sutton referred to is not an outdoor advertising sign. He added that he would talk with the interested party to be sure there is no misunderstanding. The church would not have received notice as they are more than 1,200 ft. away.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** the Verification of the spacing requirement for an Outdoor Advertising Sign from another outdoor advertising sign along the same side of the expressway (Section 1221.F.2), in accordance with the White Survey submitted August 8, 2006, on the following described property:

BEG 1052.2N SWC E/2 E/2 NE TH N510 TO SLY R/W BA EXPY TH SE359.86
S368.79 W331 POB LESS BEG 1052.2NSWC E/2 E/2 NE TH N296.63 E20
S296.63 W20 POB SEC 25 19 13 3.203ACS, City of Tulsa, Tulsa County, State
of Oklahoma

Case No. 20320

Action Requested:

Verification of spacing requirements for an Outdoor Advertising Sign from another outdoor advertising sign (Section 1221.F.2), located: 5555 South 129th Avenue East.

Presentation:

Richard Maris, 8911 South 92nd East Place, referred to page 5.4 in the agenda packet as the verification of spacing that he submitted with this application. The only sign in question would be to the northwest and it is approximately 1,301 ft. by his measurement. He submitted a letter of survey from White Survey for a more accurate verification (Exhibit C-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Verification of spacing requirements for an Outdoor Advertising Sign from another outdoor advertising sign (Section 1221.F.2), finding the survey and the evidence presented show the requirements for verification of spacing for an outdoor advertising sign have been met, on the following described property:

Tract of land located in Lot 1, Block 1 of Ford Motor Company Tulsa Glass Plant, an addition to the city of Tulsa, Tulsa County, Oklahoma (Plat No. 3373) more particularly as follows: Beginning at the SW corner of Lot 1, Block 1, thence N 00°07'49"W, along the West line of Lot 1, Block 1, a distance of 440.32 feet; thence N 88°14'00" E, a distance of 449.30 feet; thence N 86°11'56" E, a distance of 282.88 feet; thence on a curve to the right having a delta angle of 01°07'16", with a radius of 90026.39 feet, and a length of 1761.70 feet, with a chord bearing of N 89°36'57" E, and a chord distance of 1761.68 feet; thence N 89°50'43" E, a distance of 100.00 feet, to the East line of Lot 1, Block 1; thence S 00°07'24" E, along the East line of Lot 1, Block 1, a distance of 482.72 feet, to the SE corner of Lot 1, Block 1; thence S 89°56'58" W, along the South line of Lot 1, Block 1, a distance of 2593.02 feet, to the point of beginning. Said tract containing 28.14 acres more or less. NW Qtr S33 T19N R14E

Case No. 20321

Action Requested:

Special Exception to permit a home occupation (cosmetology) in an RS-3 district (Section402.A), located: 3316 East 23rd Street South.

Presentation:

Morris Bender, stated that his wife has done pedicures, manicures and artificial nails for many years. She would now like to do that work in their home. He added that the landlord was in support of this application. There is a rear wing to the house with a private entrance that is well suited for her business.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Special Exception to permit a home occupation (cosmetology) in an RS-3 district (Section402.A), subject to a time period of five years from August 8, 2006; in compliance with the applicant's letter of June 29, 2006; the shop is limited to two customers at any given time; finding this 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:

N 95 ft. of LT 4 BLK 13, JEFFERSON HILLS ADDN, City of Tulsa, Tulsa County,
State of Oklahoma

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Case No. 20323

Action Requested:

Variance of the required front yard from 30 ft. to 20 ft. (Section 403) to permit a 5 ft. extension onto the front of the existing house, located: 2112 Terwilliger Boulevard.

Mr. Henke out at 2:09 p.m.

Presentation:

Scott Bruman, stated he is an owner of TriArch Architecture. The subject property is a legal non-conforming in an RS-2 district. The front stoop is 25 ft. off of the front property line and they want to add only five feet to the front of the house. He informed the Board there is a 100 ft. right-of-way on Terwilliger. An elevation and site plan were provided (Exhibit E-1).

Interested Parties:

Greg Jennings, 2260 South Troost, expressed concern that approval of this kind of relief in this neighborhood could precipitate the removal of existing houses for construction of homes too large for the lots. He noted that this particular property has more frontage than the usual RS-2 and is a larger lot in an RS-2 district. The street curves so it would not appear to stick out too much. He was opposed to the existing fence to Woodward Park.

Mr. Henke returned at 2:11 p.m.

Craig Gaines, 2204 Terwilliger Boulevard, wanted to know why they asked for ten feet and they only need five feet. Ms. Stead explained the current zoning code requires a 30 ft. setback and so they have to obtain relief from the current code.

Applicant's Rebuttal:

Mr. Bruman responded that one hardship is that the property is a legal, non-conforming and the zoning code changed since it was platted.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Variance of the required front yard from 30 ft. to 20 ft. (Section 403) to permit a 5 ft. extension onto the front of the existing house, per the elevation and plan submitted today, finding the code has changed to require a 30 ft. setback; and having read the requirements for a variance in the staff comments, the requirements have been met, on the following described property:

LT 1 BK 3, TERWILLEGER HGTS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20324

Action Requested:

Minor Special Exception to reduce the front setback by 4' – 6", located: 2823 East 25th Street South.

Presentation:

Joshua Livingston, the applicant was not present.

Interested Parties:

There were no interested parties who wished to speak.

Mr. Henke stated the Board would go to the Other Business on the agenda and return to this case.

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OTHER BUSINESS

Mr. Cuthbertson noted there has been some debate as to the requirements of a site plan and what it should include. The staff has attempted to provide a guide for items to be included on a site plan. He provided a check list for the Board to review of residential and non-residential properties. Staff would like to receive a response from the Board members as to their opinions of things that need to be added or deleted from the list. He asked the Board about placing it on the next meeting agenda for discussion. Mr. Henke thanked staff for the draft check list for review.

Mr. Ackerman asked if staff intended this document to be an official part of the Board policies and procedures. Mr. Cuthbertson put the question to the Board. They discussed the subject but made no decision to make it a part of the policies and procedures. Ms. Stead expressed a desire for something in writing regarding the subject of required sidewalks in residential districts for reconstruction projects. Mr. Ackerman responded that a requirement for sidewalks should bear some rational relationship to the relief requested.

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Case No. 20324

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** Case No. 20324 to the meeting on August 22, 2006, on the following described property:

PRT LT 6 & PRT VAC 25 ST BEG 81E NWC LT 6 TH S107.77 NE84.09 N103.9
W84 POB BLK 7, BRYN-MAWR, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting was adjourned at 2:25 p.m.

Date approved: 8/22/06

Frank A. Murty
Chair

