

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 945
Tuesday, November 14, 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
Stephens
Tidwell, Secretary

**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, November 9, 2006, at 1:57 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.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20367

Action Requested:

Appeal the determination of the Tulsa Preservation Commission to deny a Certificate of Appropriateness application, located: 312 East 20th Street.

Presentation:

Mr. Cuthbertson informed the Board that Scott Lambert, the applicant, requested a continuance to the meeting on January 9, 2007 to work out the issues with the Tulsa Preservation Commission.

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** to the meeting on January 9, 2007, on the following described property:

SECR LTS 80 81 & W15 LT 82 & N10 VAC ALLEY ADJ ON S LESS S6 LT 82 & LESS BEG LT 81 TH N6 W2 CRV LF TO PT SL LT 81 E8 POB BLK 9, SOUTH SIDE ADDN

Case No. 20376

Action Requested:

Verification of the spacing requirement for an Outdoor Advertising Sign of 1,200 ft from another outdoor advertising sign on the same side of the highway (Section 1221.F.2); Variance to combine frontages of lots along major streets for calculating display surface area (Section 1221.C.4); Variance of the maximum display surface area for an Outdoor Advertising Sign to permit 672 sq ft. (Section 1221.D.3), located: East of the northeast corner of Skelly Drive and South Harvard Avenue.

Presentation:

Mr. Cuthbertson stated the applicant requested a continuance to November 28, 2006 to review the plans and comply more closely with the zoning code.

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** a Case No. 20376 to the meeting on November 28, 2006, on the following described property:

PRT SW SW BEG 330E NWC SW SW SW TH E106.24 S201.74 SE70.31 E155.08 N546.12 W239 SW151.28 SWLY65.50 S139 POB SEC 28 19 13 3.40ACS, BEG 221.12 E NWC SW SW SW S 155.86 SELY ON BYPASS220 N 201.74 W 215.12 TO BEG SEC 28-19-13 , BEG 50 E OF NW COR SW SW SW TH S 119.37 SELY ON BYPASS 175 N 155.86 W 171.12 TO BEG SEC 28-19-13, City of Tulsa, Tulsa County, State of Oklahoma

MINUTES

On **MOTION of Tidwell**, the Board voted 5-0-0 (Dunham, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of October 24, 2006 (No. 944).

UNFINISHED BUSINESS

Case No. 20351

Action Requested:

Appeal the determination of a Neighborhood Inspector that a trucking business/operation is located in an AG district, located: 7009 West Edison Street.

Request for Continuance:

Robert Nichols, 601 South Boulder, Suite 400, represented Mr. and Mrs. Shad Morris. He has discussed the application with INCOG staff. The applicants requested a continuance until they have time to pursue a possible zoning change.

Comments and Questions:

Mr. Henke asked Mr. Nichols to speak to the appearance that the applicant is operating a trucking company on this property. Mr. Nichols purchased the property intending to park his company trucks at his home on this property. This AG property is unplatted, located in Osage County but under the City of Tulsa Zoning Code. The zoning code restricts this use under AG zoning. Mr. Dunham noted that the Board of Adjustment does not have the power to approve this use on AG property. The Board members, the City Attorney and Mr. Nichols discussed the situation that the applicant appealed to the Board as the code directs within a timely manner, but wanted the use stayed until they can pursue other legal action to permit the use.

Interested Parties:

Shad Morris, 7009 West Edison, stated that his business is legally located in Jenks. He added that they had no intention to do anything illegal on the subject property. He consulted with the realtor and other professionals and they informed him there would be no problem with this use at their home.

Mr. Nichols stated that the applicant retained him about 45 days prior and this application was the only option known to them at that time.

Kevin Cox, 111 South Greenwood, with Neighborhood Inspections, stated it was apparent that the applicant is running his business out of the AG-zoned land. He asked for a denial of the continuance to give the neighbors relief from the issues. Mr. Cox stated that he has been working with the applicant since May 2006, and the use has continued to now.

Mr. Ackermann noted that when the applicant appeals to District Court it would stay enforcement of the action of the Neighborhood Inspector. He indicated the time extension into February, during which the use would continue.

Mr. Cox pointed out that the applicant and two employees park on a non-all-weather surface daily on the subject property. They start up the trucks between six and seven in the morning and return between six and seven in the evening.

Mr. Henke allowed Mr. Nichols to speak again. Mr. Nichols again pointed out the applicants are self-employed and trusted professionals in real estate to help them find property for their home and this use. They are interested in finding a legal solution for this situation. He explained that Mr. Morris sought mediation with the realtor, insurance company and the closing companies to resolve this matter. The real estate company, their insurance company and the closing companies retained Mr. Nichols to help them find a resolution. He added that there are neighbors in support of the zoning application.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** the request for Continuance.

Presentation:

Shad Morris, the applicant, stated that he and his wife did not intend to cause displeasure or discomfort to any of the neighbors. He added that they considered many different properties before they chose the subject property. They had plans for landscaping and improvements to their property. He informed the Board that he has state issued permits to run his business at the Jenks address. He did not consider the business operations to include parking the trucks on the subject property.

Interested Parties:

Sergeant Frank Whitlock, 7227 West Cameron Street, expressed support of the application. He indicated his extended family and neighbors were also in support. He noticed they do not make a lot of noise and their hours of ingress and egress are not unreasonable or disturbing.

Mr. Cox was open to questions. He offered to work more with the applicant and the City of Tulsa toward a resolution in lieu of District Court.

Larry Moore, 6969 West Edison, stated he has lived there for twenty-six years, on the property abutting the subject property to the east. He commended the applicant for running his own business and expressed his regards to them that they were misled. Mr. Moore submitted photographs (Exhibits A-1 and A-3) of the trucks that park on the property. He noted that two drivers arrive every morning, park their personal vehicles and drive out in the business trucks. He observed they run the trucks Monday through Saturday, starting them up every morning and arriving every evening. They hear the noise and smell the diesel fumes from their house. Mr. Moore also mentioned that truck maintenance is performed on the subject property, as shown in a photograph. He pointed out the narrow roads to the property, North 72nd and West Edison, approximately 11 to 12 ft. wide (see photo exhibits). He added that the semi-trucks are about eight feet wide so another vehicle cannot pass them on these roads. There are no shoulders on these roads. He also noted that West Edison is a dead end road and there are no

other points of ingress and egress to this property. He submitted maps indicating a childcare center and public school bus stops in the area (Exhibit A-2) to further inform the Board of traffic hazards. He also submitted a petition of neighbors in opposition (Exhibit A-4).

Don Brock, 121 North 72nd West Avenue, informed the Board that roads are not conducive to commercial truck traffic. He noted that children walk to the bus stop along the same route the trucks use. He mentioned that City of Tulsa had to repair an area where a truck had to make a close turn within the last month. He suggested they relocate parking of the commercial trucks.

Donna Moore, 6969 West Edison, stated they had a relative that considered property in the area for business but discovered the zoning would not permit it. She pointed out that a little more research would have saved them this trouble.

Applicant's Rebuttal:

Mr. Morris responded that they asked questions and sought the information from professionals and obtained the wrong information. He refuted the complaints regarding the trucks turning at the intersections. He stated that the parking surfaces are aggregate treated with asphalt and he indicated the inspector did not pick up a handful of it.

Mr. Henke interrupted to state the issue is whether they are or are not running a business on the subject property.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** the Appeal of the determination of a Neighborhood Inspector that a trucking business/operation is located in an AG district in Case No. 20351, on the following described property:

E 345' W 1005' of Lt 4 SW/4 SW/4 Section 31, T-20, R-12, City of Tulsa, Osage County, State of Oklahoma

Case No. 20359

Action Requested:

Variance of the setback for an accessory building in the required rear yard from 3ft to 1ft. and 2ft. - 10in to permit a cabana. (Section 210.B.5.b), located: 1638 East 31st Place South.

Presentation:

Robert Bearer, 525 South Main, Suite 800, represented the applicants, Ed and Kathy Raschen. He submitted a final site plan (Exhibit B-1). They proposed to construct a cabana in the southeast corner of the property. He stated it is a two-

sided structure, closed in on the east and south. It is a Masonite with stucco on the exterior; stone front fireplace and a composition shingle roof. He expressed concern for drainage issues and safety concerns if they moved the construction to the west or too close to the pool.

Comments and Questions:

Mr. Henke asked about the minor variance to which Mr. Bearer referred. Mr. Cuthbertson explained that the Board established a policy that if the applicant requests a reduction in a required side or rear yard of 20% or less, then it becomes a minor variance. It allows staff to expedite those applications, as it does not require a notice in the newspaper, just notice to neighbors of surrounding properties. He added that he may have mis-communicated with Mr. Bearer's representative, in that the minor variance applies to principal dwellings from the required yards, not necessarily to accessory structures in the required rear yard.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the setback for an accessory building in the required rear yard from 3ft to to permit a cabana (Section 210.B.5.b), per plan, depicting relief on the east to a distance of 2.82 ft. and on the south to a distance not less than 2.41 ft., finding the hardship to be there are footings in place at this location and they have been there for a long time; 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:

BG 341.7W & 316S NEC NE NW TH S183.25 W158.3 N133.25 ELY ON CRV 48.26 REV CV 136.90 E39.47 POB SEC 19 19 13, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 20363

Action Requested:

Special Exception to permit a carport in the required front yard in an RS-2 District (Section 210.B.10), located: 4179 South New Haven Place East.

Mr. Henke out at 2:00 p.m.

Presentation:

Jeana Gee, 4179 South New Haven Place, stated her request for special exception for an existing carport in their front yard. She submitted photographs

(Exhibit C-1), showing a large oak tree that hangs over their driveway. They needed a carport to protect their vehicles from the falling acorns that have damaged their cars.

Comments and Questions:

Mr. Stephens asked if they use the garage. She replied that they use the two-car garage but it will not accommodate their truck and a car. Ms. Stead asked when they purchased the property, to which Ms. Gee replied four years ago. She also asked if it had a carport at that time. Ms. Gee answered it did not. Ms. Stead asked if they inquired if they needed a permit to build a carport. Ms. Gee responded that they asked neighbors but they did not find out they needed a permit. Ms. Gee stated there are other carports in the neighborhood but Ms. Stead responded there are not any on New Haven. Ms. Gee submitted photographs of the other carports she saw (Exhibit C-1).

Mr. Henke returned 2:05 p.m.

Ms. Gee submitted letters of support from some neighbors (Exhibit C-2). Mr. Ackermann asked if they hired a contractor for the job. Ms. Gee replied that they did but she and her husband took responsibility for the failure to apply for a permit.

Interested Parties:

Richard Mishgan, 4135 South New Haven Place, stated there are no other carports on their street, though there are some located nearby. He added that it was a nice structure and better than some of the others in the photographs. He expressed concern that if the Board allows this one it will set a precedent. He indicated he would like to have a carport on the front of his house but decided not to. He added that the carport somewhat changed the complexion of the neighborhood, but it is not unattractive. Mr. Mishgan also stated he was not strictly in support or opposition but wanted to express his thoughts regarding the application.

Duncan Duvall, 4171 South New Haven Place, stated the carport is not obstructive. He had no objections to the application. He considered it attractive and stated his support.

Michael Silva, 3717 East 43rd Place, stated he lives about four to five houses to the west of the subject property. He appreciated the owners' desire to improve their property. However, he is in support of compliance with the zoning code.

Lisa Tennison, 3319 South 127th East Place, stated that she travels in this area daily for a daycare. She stated the carport does not cause a problem for traffic.

Applicant's Rebuttal:

Ms. Gee responded that it did not cross her mind to seek the support of her neighbors before building the carport. They never made structural improvements

to a home before. They did not have the room for a carport on the side or rear of the house.

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 carport in the required front yard in an RS-2 District (Section 210.B.10), on the following described property:

LT 10 BLK 16, PATRICK HENRY B13-23, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20368

Action Requested:

Variance to reduce the required rear yard in an AG District from 40 ft to 24 ft (Section 303); Variance of the required number of parking spaces from 70 to 62 (Section 1205.C); and a Minor Special Exception to amend a previously approved site plan, located: 16933 East 21st Street South.

Presentation:

Gregory Helms, 329 South Elm, Jenks, Oklahoma, represented the Tam-Bao Buddhist Temple. A site plan was provided (Exhibit D-1).

Mr. Stephens out at 2:21 p.m.

The existing structure is only 34 ft. from the rear property line. The owners of the subject property also own the two tracts to the north. The rear yard setback is to their other property. They propose to add on to the north side of the building.

Comments and Questions:

Mr. Dunham asked if they would be willing to landscape or screen to separate the properties on the north if they were to sell to another property.

Mr. Stephens returned at 2:24 p.m.

Ms. Stead asked what he considered are the practical parking demands. Mr. Helms replied that three or four different groups use the temple. He stated twenty-five cars is the maximum at any one time. He stated the only two sides where they could add on is to the west or north. The north has a utility easement against the property.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 5-0-0 (Dunham, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance to reduce the required rear yard in an AG District from 40 ft to 24 ft (Section 303); Variance of the required number of parking spaces from 70 to 62 (Section 1205.C); and a Minor Special Exception to amend a previously approved site plan, per plan submitted today, finding the hardship is an existing building and the functions for which it will be used would be complicated if not impossible to locate them elsewhere; the property owner owns the adjacent property to the north; with a condition: if the property to the north is sold to a separate user that adequate screening be provided; and do not see a practical reason to add parking spaces, 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; and this action supercedes the Board Action in BOA Case No. 16408, on the following described property:

LT 1 BLK 2, HICKORY MANOR ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20369

Action Requested:

Special Exception to permit a truck wash (Use Unit 23) and a truck oil and tire service facility in a CG district (Section 701), located: 13001 East Admiral Place.

Presentation:

Nicole Peltier, 10830 East 45th Street, with DeShazo, Tang and Associates, stated the request. She referred to a previously approved truck wash but it was not constructed. Her client purchased the property and sought the same relief. A site plan was provided (Exhibit J-1).

Comments and Questions:

Ms. Stead reminded Ms. Peltier of the requirements for maintenance of sidewalks on Admiral Place and all the surfaces must be asphalt or concrete.

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 Special Exception to permit a truck wash (Use Unit 23) and a truck oil and tire service facility in a CG district (Section 701), with conditions that sidewalks on Admiral Place be maintained, and all surfaces including access from Admiral Place be asphalt or concrete; 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:

PRT GOV LT 4 BEG 672.41E NWC GOV LT 4 TH E43.69 S611.70 W143.69 N411.70 E100 N200 POB SEC 4 19 14 1.56ACS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20370

Action Requested:

Variance of the rear yard requirement from 25 ft. to 17 ft. - 6 in. to permit the extension of an existing garage (Section 403), located: 6030 East 104th Street South.

Presentation:

Philip Cunningham, 6030 East 104th Street South, proposed to add garage space to the existing structure (Exhibits E-1, E-2). He provided letters of support with his application. The Homeowners' Association Board is in support of the application.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the rear yard requirement from 25 ft. to 17 ft. - 6 in. to permit the extension of an existing garage (Section 403), per plan, with conditions that the landscaping remain intact at the rear of the lot as per the photographs submitted (Exhibit E-2); and all-weather surfaces be paved; finding the hardship is that it would be difficult to do in any other location; lot is oversized with existing heavy landscaping at the rear of the lot; 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, which is evidenced by the letters of support of the neighborhood, on the following described property:

LT 7 BLK 2, FOREST PARK SOUTH 2ND, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 19899a

Action Requested:

Approval of a site plan to permit the addition of the Learning Center to the University of Oklahoma - Tulsa campus, located: 4502 East 41st Street South.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, represented the University of Oklahoma at Tulsa. He reminded the Board of the previously approved over-all Master Site Plan for the campus improvements. He provided the site plan, other documents and photographs (Exhibit F-1, F-2 and F-3) for the Learning Center. He pointed out the access points and double row of trees.

Comments and Questions:

Ms. Stead reminded him of the requirements for sidewalks and lights turned down and away from residential property.

Interested Parties:

Arthur Ritter, 4303 South Sandusky, asked if this facility was a part of the 2025 Vision. Mr. Henke replied that it was not. Mr. Cuthbertson noted that it was a part of the Master Plan for this campus.

Applicant's Rebuttal:

Mr. Norman mentioned that the parking garage is substantially complete and the clinics are nearing completion.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a site plan to permit the addition of the Learning Center to the University of Oklahoma - Tulsa campus, noting that the development standards as set forth in the material furnished by the applicant will be the standards for the new development, per plan, with a condition that a sidewalk be constructed from Boren Avenue to the south entrance along Yale Avenue, 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, City of Tulsa, Tulsa County, State of Oklahoma

Case No.20371

Action Requested:

Verification of Spacing Requirements for a Family Day Care Home (Section 402.B.5.g), located: 3319 South 127th Place East.

Presentation:

Lisa Tennyson, 3319 South 127th Place East, stated two years ago when she contacted the state about opening a Family Day Care Home they gave her a lot of information. She added that it did not include information regarding a permit. She heard from the City of Tulsa regarding a complaint of her sign. She is going

through the steps to obtain her permit. She provided a verification of spacing with her application.

Interested Parties:

Paul Webber, 3183 South 133rd East Avenue, stated he did not know anything about her day care home until he saw the sign.

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Verification of Spacing Requirements for a Family Day Care Home (Section 402.B.5.g), on the following described property:

LT 30 BLK 6, BRIARGLEN EAST PRT RES A BRIARGLEN EXT, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20372

Action Requested:

Special Exception to permit University uses (Langston University - Use Unit 5) in RS-3, RM-2, and IL districts (Sections 401 & 901); and a Special Exception to permit required parking on a lot not containing the principal use (Section 1301.D), located: West and East of North Greenwood Avenue, South of East King Street.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, represented Langston University. This is a Vision 2025 Project that was funded two years ago. He submitted elevations, site plans and photographs (Exhibits G-1 and G-2). He pointed out the sharply sloping terrain toward the rear of the site. He identified points of the plan, including, access, trails, and landscaping.

Comments and Questions:

Mr. Stephens asked about the number of square feet for the Phase 1 building. Mr. Norman replied it would be 34,000 square feet in two levels. He added that he has turned in the request for an amended elevation plan for an increased height on exhibit "D".

Interested Parties:

Esther Grant, 537 East King Street, asked if there is an access from King Street and where the parking would be located. Mr. Henke answered her questions.

Applicant's Rebuttal:

Mr. Norman mentioned that the applicant proposed a monument sign on the Greenwood Avenue frontage, with the name of the university and the name of the proposed center. He pointed out that it was not included in the site and elevation

plans. He suggested the Board might want to place their limitations for that sign in the motion to eliminate the need to return to the Board.

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (Dunham, Henke, Stead, Stephens, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVED** a Special Exception to permit University uses (Langston University - Use Unit 5) in RS-3, RM-2, and IL districts (Sections 401 & 901); and a Special Exception to permit required parking on a lot not containing the principal use (Section 1301.D); per plans (applicant exhibits A, B, C, amended D-lowering the northeast parapet to 48.2 ft.), Exhibit pages – 11.6 and 11.7; with conditions: property to be platted; sidewalks to be constructed along the perimeter of the property containing the principle use; maintain sidewalks along east side of Greenwood on proposed parking area; any signage subject to zoning maximum size as no relief has been requested; in Phase II the building will be set back 25 ft. from the street right-of-way line; and the trail must be relocated in compliance with the Trail Master Plan and the Parks Department, 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:

A TRACT OF LAND THAT IS ALL BLKS 3 & 4 'GURLEY-HILL ADDITION', PRT OF BLK 3 'LINCOLN PARK ADDITION', ALL OF LTS 1 THRU 12 OF BLK 6 OF THE SUBDIVISION OF N 190' OF BLK 6 'GURLEY-HILL ADDITION', & PRT OF VAC 'DAVIS-WILSON HEIGHTS ADDITION', & ALL OF E JASPER ST N & N FRANKFORT AVE LYING ADJ THERETO, ALL IN THE CITY OF TULSA, TULSA COUNTY, OKLAHOMA, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

'BEG AT A PT' THAT IS THE SE/C OF SAID BLK 4 'GURLEY-HILL ADDITION', SAID PT ALSO BEING THE NE/C OF LT 1 IN BLK 4 OF 'UNIVERSITY CENTER AT TULSA', AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, OKLAHOMA; TH S 89° 08'09" W ALONG NLY LN OF SAID LT 1 & THE SLY LN OF SAID BLK 4 'GURLEY-HILL ADDITION' FOR 720.73'; TH N 01°13'20" W & PARALLEL WTH ESTLY LN OF SAID BLKS 3 & 4 OF 'GURLEY-HILL ADDITION' FOR 594.74' TO A PT ON NTHLY LN OF BLK 3 OF 'LINCOLN PARK ADDITION', TH N 88°31'36" E ALONG SAID NTHLY LN & ESTLY EXT THEREOF FOR 120.73' TO A PT ON WSTLY LN OF BLK 3 OF 'GURLEY-HILL ADDITION'; TH N 01°13'20" W ALONG SAID WSTLY LN FOR 7.00' TO NW/C OF SAID BLK 3 OF 'GURLEY-HILL ADDITION'; TH N 88°31'36" E ALONG NTHLY LN OF BLK 3 FOR 600.00' TO THE NE/C OF SAID BLK 3; TH S 01°13'20" E ALONG THE ESTLY LN OF SAID BLKS 3 AND 4 AND THE WSTLY R-O-W LN OF N GREENWOOD AVE FOR 609.40' TO THE 'POB' OF SAID TRACT OF LAND, CONTAINING 10.00 ACRES, MORE OR LESS.

AND;

A TRACT OF LAND THAT IS PRT OF 'WASHINGTON ADDITION', AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, OKLAHOMA, ALL IN SEC 36, T-20-N, R-12-E, OF THE I.B. & M., CITY OF TULSA, TULSA COUNTY, OKLAHOMA, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

'BEG AT A PT' THAT IS THE SW/C OF BLK 4 OF 'WASHINGTON ADDITION', SAID PT ALSO BEING THE NW/C OF 'RESERVE B OF THE UNIVERSITY CENTER AT TULSA', AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, OKLAHOMA, TH N 01°13'20" W ALONG THE ESTLY R-O-W LN OF N GREENWOOD AVE FOR 322.71 FT; TH N 88°54'09" E 286.21 FT; TH S 01°08'38" E 26.75 FT; TH N 88°54'08" E 320.26 FT; TH S 04°40'44" W 298.07 FT TO THE NE/C OF RESERVE B; TH S 88°57'43" W ALONG THE NTHLY LN OF RESERVE B AND THE

STHLY LN OF SAID BLK 4 575.79 FT TO THE 'POB' OF SAID TRACT OF LAND, CONTAINING 4.196 ACRES, MORE OR LESS.

Case No. 20373

Action Requested:

Variance of parking requirements for restaurant use in place of permitted retail establishments (Section 1212.D), located: Southwest corner of East 34th Street and South Peoria Avenue and the Northwest corner of East 35th Place and South Peoria Avenue.

Mr. Stephens recused himself, and out at 3:26 p.m.

Mr. Cuthbertson informed the Board that they have a revised site plan before them, showing the proposed church layout. The church will be before the Board in December. He also gave them three letters with concerns regarding the application.

Presentation:

William R. Grimm, 610 South Main, represented the applicant, Aberson Development, LLC. He stated when Mr. Aberson originally started the development of Center One, they had an agreement with Southminster Presbyterian Church they obtained sixty parking spaces. He covered some of the history and concluded there would be more than adequate parking.

Comments and Questions:

Ms. Stead asked how many parking spaces they lease from the church, to which Mr. Grimm replied they use 102 spaces. He explained to the Board that the use of the parking has worked because of the different days/hours of use by the church and commercial businesses.

Interested Parties:

Charles Norman, represented Southminster Presbyterian Church. They are in support of the application. They do not have parking agreements with anyone but Abersons.

Mr. Stephens returned at 3:45 p.m.

Herb Beattie, 3474 South Zunis Avenue, represented the Brookside Neighborhood Association. He asked that the Board continue this case until after the Board of Adjustment hears the church application. They are not clear what the impact will be or if there is adequate parking for the new restaurant.

Pamela Deathridge, 1516 East 36th Street, stated that the church owns the commercial properties and the parking lot. They made stipulations in the lease

agreement to exclude liquor stores, 12.a zoning, or shared parking on Sundays during church hours.

Carol Ashcraft, expressed concern for the impact on her property. She agreed this application should be heard after the church application.

Applicant's Rebuttal:

Mr. Grimm responded that they are trying to do what is best for the neighborhood regarding the parking. He was willing to be continued to the next meeting.

Board Action:

On **MOTION** of **Stead**, the Board voted 4-0-1 (Dunham, Henke, Stead, , Tidwell "aye"; no "nays"; Stephens "abstained"; no "absences") to **CONTINUE** Case No. 20373 to the meeting on December 12, 2006.

Case No. 20374

Action Requested:

Special Exception to permit a community center - pool/ pool house (Use Unit 5) in an RS-4 district (Section 401), located: 18837 East 47th Street South.

Presentation:

Roy Johnsen, 201 West 5th Street, Suite 600, represented the developer of Stone Creek Farms III. He pointed out this application is on the reserve area in the subdivision. A site plan and other applicant exhibits were provided (Exhibits H-1 and H-2).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (Dunham, Henke, Stead, Stephens, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a community center - pool/ pool house (Use Unit 5) in an RS-4 district (Section 401), per plan, noting the pool house will not exceed 35 ft. in height, on the following described property:

Reserve Area A, STONE CREEK FARMS III, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20375

Action Requested:

Verification of the spacing requirement for an Outdoor Advertising Sign of 1,200 ft. from another Outdoor Advertising Sign on the same side of the highway (Section 1221.F.2); and a Variance of the minimum setback of 200 ft. for an Outdoor Advertising Sign from an R district (Section 1221.F.4.b), located: 1324 West 41st Street South.

Presentation:

William R. Grimm, 610 South Main, Suite 300, represented the applicant, Don Jernigan. He stated this property is being re-zoned to IL. A site plan was provided (Exhibit I-1). Mr. Grimm pointed out the hardship is that the abutting residential property is a drainage ditch and is not inhabitable.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, to **APPROVE** a Verification of the spacing requirement for an Outdoor Advertising Sign of 1,200 ft. from another Outdoor Advertising Sign on the same side of the highway (Section 1221.F.2); and a Variance of the minimum setback of 200 ft. for an Outdoor Advertising Sign from an R district (Section 1221.F.4.b), noting that the R district at this location is uninhabitable; 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; 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, Ms. Stead asked for discussion on the motion resulting in an amended motion.

On **Amended MOTION** of **Dunham**, the Board voted 5-0-0 (Dunham, Henke, Stead, Stephens, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Verification of the spacing requirement for an Outdoor Advertising Sign of 1,200 ft. from another Outdoor Advertising Sign on the same side of the highway (Section 1221.F.2); and a Variance of the minimum setback of 200 ft. for an Outdoor Advertising Sign from an R district (Section 1221.F.4.b), noting that the R district at this location is uninhabitable, per plan, and subject to the two adjacent properties to the east being zoned IL; 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; 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

BEG 15S OF NWC OF W63.5 E310.75 S626 OF N/2 NW NWTH S307 SE86.89 N372.23 SW63.7 POB SEC 26 19 12, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20377

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign, 1,200 ft. from another outdoor advertising sign on the same side of the expressway (Section 1221.F.2), located: Northeast corner East Skelly Drive and East 27th Street South.

Presentation:

John Moody, was present, having verified the spacing requirements.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (Dunham, Henke, Stead, Stephens, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Verification of the spacing requirement for an outdoor advertising sign, 1,200 ft. from another outdoor advertising sign on the same side of the expressway (Section 1221.F.2), having met the requirement for spacing, on the following described property:

LT 6 LESS BEG NEC LT 3 TH N20.47 CRV RT 261.80 S20.57 W50 POB & LESS BEG 243.34NE SECR TH SE25 NE388.25 SW389.05 POB FOR HWY, TRI-CENTER VILLAGE RSB HOLIDAY VLG RSB L2-3B1 TRI CENTER ADD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20386

Action Requested:

Refund requested.

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (Dunham, Henke, Stead, Stephens, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a refund of \$800.00 for Case No. 20386, as recommended by staff.

OTHER BUSINESS

LED Message Boards

Discussion related to LED message boards in Residential and Agriculture districts.

Mr. Cuthbertson asked what additional information would help the Board. Mr. Henke suggested the history of some cases that have been before the Board in the past two to three years.

There being no further business, the meeting was adjourned at 4:10 p.m.

Date approved: 12/12/06

Frank X. Henke, Jr.
Chair