

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 951
Tuesday, February 27, 2007, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

White
Henke, Chair
Stead, Vice Chair
Stephens
Tidwell, Secretary

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Butler
Cuthbertson

**OTHERS
PRESENT**

Ackermann, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Friday, February 23, 2007, at 3:40 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 5-0-0 (White, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the corrected Minutes of January 23, 2007 (No. 949); and the Minutes of February 13, 2007 (No. 950).

UNFINISHED BUSINESS

Mr. Henke and Mr. White recused themselves from Case 20418.

Case No. 20418

Action Requested:

Variance of the minimum frontage permitted in an IM district from 200 ft. to 40.56 ft. (Section 903), located: 5755 East 15th Street.

Presentation:

Robert Sartin, 610 South Main, Suite 300, stated he obtained a lot-split about one year ago and sold one of the lots (Tract B). The remnant lot has been a used car business for a number of years. He recently entered a contract to sell the subject property, contingent on splitting it from a remnant lot. The remnant is really a creek, not usable land. He stated he has a perpetual road easement on the property to the west. It serves as a driveway for that property and to his storage. He owns the railroad right-of-way on Tract C.

Board Action:

On **Motion of Tidwell**, the Board voted 3-0-2 (Stephens, Stead, Tidwell "aye"; no "nays"; Henke and White "abstained"; no "absences") to **APPROVE** a Variance of the minimum frontage permitted in an IM district from 200 ft. to 40.56 ft. (Section 903), by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted 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:

BEG 40N SWC SW NE TH N238.8 NWLY 344.65 CRV NLY 310 TO EL RR RW
TH SELY 400 E102 S260 W305.87 SE315.97 W427.31 POB SEC 10 19 13
5.615ACS, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 20428

Action Requested:

Verification of spacing requirements for a family day care home of 300 ft. from another family day care home on the same street (Section 402.B.5.g), located: 429 East Seminole Place.

Presentation:

Christopher and Charlotte Miller, were present at the hearing. They provided verification information as shown in the agenda packet.

Interested Parties:

Clifford Jones, 503 East Seminole Place, stated his support of this application. He informed the Board there is another daycare home at 442 East Seminole Place, as of December 2006. Mr. Cuthbertson noted there has not been a recent application for a daycare home at 442 East Seminole Place. Mr. Ackermann stated the first applicant with a DHS permit to be approved by the Board would establish the first legal use. The second applicant for a daycare home in the 300

ft. radius would have to ask for a variance of the spacing requirement. Mr. Ackerman added if the spacing verification was not approved, then they could not obtain a clearance permit. Mr. Henke surmised it is an illegal operation. Mr. Jones also mentioned that they are also operating a beauty salon in that home. He complained that the customers were parking on the street that interfere with ingress and egress from his driveway.

Ethel May Brown, 430 East Seminole Place, expressed support of this application and an objection to the operation at 442 East Seminole Place.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Verification of spacing requirements for a family day care home of 300 ft. from another family day care home on the same street (Section 402.B.5.g), on the following described property:

E.30'LOT-15-& W.13'-LOT-16-BLK-9, W.30'-LOT-15-BLK-9, MEADOWBROOK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20429

Action Requested:

Special Exception to permit light industrial use (Use Unit 25) in a CH district (Section 701); and a Special Exception to modify the screening requirement adjoining a residential district (Section 212.C), located: 1115 North Utica Avenue.

Presentation:

Taylor King, 3142 South Gary Avenue, with Tri-Arc, architect for the project stated he was present with the applicant's attorney and the contractor of record. A site plan was provided (Exhibit A-1).

Comments and Questions:

Ms. Stead asked Mr. King which fence on the east is the boundary. He indicated the most eastern fence is the boundary. The applicant did not want to remove trees but proposed to fill in the spaces with vegetation or fencing. They planned for vehicles to park facing the building to minimize headlights in the direction of the residential district. Ms. Stead asked if they planned to maintain the existing sidewalks on Utica. Mr. King replied they plan to maintain the sidewalks and place one on the south side of the building. He agreed to a one-story building, no outside manufacturing or storage of materials.

Interested Parties:

Patty McGill, 1517 North Wheeling Avenue, stated she was a member of the neighborhood association. She was in support of better screening on the east with

more trees or other landscaping. Ms. McGill stated it was always quiet on the subject property. She questioned the hours of operation, to which Mr. King interjected the business hours would be nine to five or six. He added there would be only about four employees at the new site. She stated they would not be in favor of a more intense industrial use.

April Boerstler, 1531 North Wheeling, expressed concern for the screening. She asked if they will be moving the business from several buildings into one building. Ms. Boerstler stated the existing business is immaculate.

Applicant's Rebuttal:

Mr. King stated the Gardner family is very particular about their site and want to be an asset to the community. This building will be used for an additional contract. The applicant wants to add landscaping for screening. He stated that the work is very quiet and the only sound that might be heard is an occasional forklift. Mr. King informed the Board they have already provided all the plans, including lighting, for a building permit and it has been reviewed. Mr. Henke mentioned requiring the Kennebunkport formula for lighting. Mr. King stated they are not adding exterior lighting and the existing lighting are wall-packs that do not extend past their property. Mr. Ackermann reminded the Board the ordinance requires that the bulbs of exterior wall-packs not be visible from the residential district.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit light industrial use (Use Unit 25) in a CH district (Section 701); and a Special Exception to modify the screening requirement adjoining a residential district (Section 212.C), subject to: maintenance of existing sidewalks on Utica; construction of continuous sidewalk between Utica and the most eastern portion of the property containing the parking lot; one-story building; no outside manufacturing or storage of material on the property; screening on the east to contain additional trees and/or bushes, which in the future will provide at least a six foot screen; concrete or asphalt on the entire parking lot; hours of manufacturing 9:00 a.m. to 5:00 p.m.; lighting in accordance to the Kennebunkport formula, subject to the plan submitted; finding the 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:

LT-16-BLK-7, W 70 LT-17-BLK-7, E 70 LT 17 BLK-7, LT 18 BLK 7, BERRY-HART ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20430

Action Requested:

Special Exception to permit single-family residential (Use Unit 6) in an CH district, located: 714 North Lewis Avenue East and 710 North Lewis Avenue East.

Presentation:

Jeff Veldstra, 1226 East 31st Court, stated they removed two dilapidated homes from the property after they purchased it. The applicant proposed to replace them with new homes. He stated they develop residential property not industrial. They intend to finish improvements on the ten-plex to the north to sell it.

Comments and Questions:

Mr. Stephens suggested access to the alley would be better than onto Lewis Avenue.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit single-family residential (Use Unit 6) in an CH district, subject to access any new dwellings from the alleyway to the west of the property; to repair and maintain continuous sidewalk along the east of both lots on the west side of Lewis from property line to property line; no curb cuts to Lewis Avenue; 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 5 BLK 14, LT 6 BLK 14, CHEROKEE HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20431

Action Requested:

Verification of spacing requirements 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), located: 4724 South Yale Avenue.

Presentation:

John Moody, 1800 South Baltimore, represented Lamar Outdoor Advertising. The letter of verification from the surveyor and a map, were provided in the agenda packet. He stated they meet the spacing requirement.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Verification of spacing requirements 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), based on the survey and information submitted, on the following described property:

LT 2 LESS BEG NEC TH S358.54 SW12.33 N173.62 N192.38 E20 POB ,
INTERSTATE CENTRAL, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20432

Action Requested:

Special Exception to permit communications ground equipment (Use Unit 4) in an AG district to enable collocation on an existing communications tower (Section 301), located: 8410 South Sheridan Road.

Presentation:

Peter Kavanaugh, 1620 Handley Drive, Dallas, Texas, represented Verizon Wireless. They proposed to collocate on an existing tower and to place the utility equipment on property leased from the church adjacent to the site. He talked with the counsel for the next-door neighbors and agreed to limit the height of the applicant's equipment to below the screening fence behind the residential property. A site plan was provided (Exhibit B-1).

Interested Parties:

Mark Peatridge, 320 South Boston, attorney, represented Mr. and Mrs. Tippeconnic, who live adjacent to the tower. They did not think the exhibits clearly showed the contents of the 20' x 20' area or the height of the cabinets. He wanted a condition to be included to protect the trajectory view from his clients' property. He asked that the height of the equipment be from the ground level and not tied to the height of the fence.

Greg Jennings, 2260 South Troost, commended Mr. Kavanaugh and Verizon for finding a collocation for this case.

Applicant's Rebuttal:

Mr. Kavanaugh assured the Board that they will be able to keep everything below the height of the fence. The only item that might be visible is a GPS antenna for 911 about the size of his fist.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit communications ground equipment (Use Unit 4) in an AG district to enable collocation on an existing communications tower (Section 301), subject to screening and landscaping on the north and west side of the new equipment yard in accordance with Section 1204.C.f and C.1 of the zoning code; the building and equipment not to exceed 8 ft. from ground level; 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:

S/2 SW SE NE & SE SE NE LESS BEG SECR SE SE NE THN610.05 W146.61 SW82.14 SW404.29 SW206.92 E499.63POB SEC 15 18 13, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20433

Action Requested:

Verification of the spacing requirement for a blood bank of 300 ft. from other blood banks, plasma centers, day labor hiring centers, liquor stores, and pawn shops. (Sec. 1214.C.3), located: 7120 South Memorial Drive East.

Presentation:

Kurt Lehman, 1812 North 4th Street, Broken Arrow, Oklahoma, represented American Exteriors Roofing Construction. His company was solicited for a remodel in the plaza for the Red Cross for a blood donation site. This site is for a non-profit organization that receives donations only and no money is paid for blood donations. He pointed out the location in the shopping center that the American Red Cross proposed to lease. He referred to the information he provided in the in the agenda packet.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Verification of the spacing requirement for a blood bank of 300 ft. from other blood banks, plasma centers, day labor hiring centers, liquor stores, and pawn shops. (Sec. 1214.C.3), in accordance with the materials submitted, on the following described property:

LT1LESSBEG226WNECTHS131.50CRVRT22.78W19 1.48 CRVRT 30.63 N
126.5 E 225.48 POB & LESS BEG SECR TH W 440.5 N 44.36 NWLY TO NEC
LT4 NW 158.78 W 10 N 370.79 E 50 S 400 W 6.02 SECRVLF 97.08 SECRVRT
121.71 CRVLF 165.72 CRVRT 155.08 CRVLF 78.68 SE 221.93 NLY 708.55 SE
257.54 S 57.9 E 35 S 72 E 201 S 662.45 POB BLK 1, RAPHAEL PLAZA, City of
Tulsa, Tulsa County, State of Oklahoma

Case No. 20434

Action Requested:

Modification of a previously approved site plan to permit a tennis facility expansion on the existing private school campus, located: 2520 South Yorktown Avenue East.

Presentation:

Roger Carter, 2520 South Yorktown, proposed to build a tennis locker room next to the existing tennis courts.

Mr. Stephens out at 2:10 p.m.

Ms. Stead asked if someone talked with them regarding sidewalks along Utica. Mr. Cuthbertson stated he discussed the subject with Brian Lloyd Freese, the architect, the morning of this hearing.

Mr. Stephens returned at 2:12 p.m.

Mr. Freese was not present and Mr. Carter was not familiar with the regulation regarding sidewalks.

Comments and Questions:

Mr. Cuthbertson followed up the discussion of sidewalks, stating the sub-division regulations for sidewalks on arterial streets have been in place for quite some time. The City has been more adamant to put in sidewalks since the end of 2004 and the beginning of 2005. He reminded the Board that they might allow the applicant time to construct the sidewalks.

Interested Parties:

Greg Jennings, 2260 South Troost, stated that they definitely need sidewalks here. He noted that since they are modifying the site plan, it opens the entire site plan for review. He pointed out that the neighborhood would be able to get to Utica Square on a sidewalk.

Blaine Frizzel, 20 East 5th Street, Suite 200, stated his support for the application. He pointed out the existing creek. He noted this is a small project and the school

was not prepared for a sidewalk project. He urged the Board to give them time to put in sidewalks.

John Moody, stated he represented Cascia Hall when this site plan was originally presented. He remembered that the sidewalks were not required at that time. He noted that in the northwest corner there will be a substantial amount of grading work that would break up a sidewalk. He encouraged the Board to defer the construction of the sidewalk until the time they build the field house.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Modification of a previously approved site plan to permit a tennis facility expansion on the existing private school campus, with a condition that when the previously approved field house is constructed that sidewalks would be constructed along the entire subject property on Utica Avenue, on the following described property:

SW NE EXCEPT W40 TO CITY OF TULSA SEC 18 19 13, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20435

Action Requested:

Verification of spacing requirements for an outdoor advertising sign (Section 1221.F.2); and a Variance of the maximum permitted display surface area for signs in a CS district (Section 1221.F.17 and D.3) to permit a 400 sq. ft. outdoor advertising sign, located: 400 ft. east of the northeast corner of I- 44 and South Harvard Avenue.

Mr. Stephens recused himself from Case No. 20435.

Presentation:

John Moody, reminded the Board that he brought an application on this property a few months ago. At that time they proposed to put up an outdoor advertising sign and obtain a tie agreement of properties. He stated they have studied the situation and discussed it with the tenant, Trade Winds Hotel. They proposed the minimal size sign, 10' x 40', which would be visible on an interstate highway. The sign would be located back to the farthest north location. He provided exhibits (Exhibit C-1) to represent their proposal. He added it would not obstruct the Trade Winds sign. When they widen the highway, the applicant would relocate the billboard. Mr. Moody indicated the shallow and narrow nature of the lot, stating by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same

use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan. He pointed out outdoor advertising signs must be within a freeway sign corridor. He added this property is within that 400 ft. of the CS districts. It would meet the code regarding clutter of outdoor advertising signs. He referred to another case for Fred Jones Ford on South Boston to move a sign back for visibility to traffic going south on Boston. The Board denied the application but the district court reversed the Board decision.

Interested Parties:

There were no interested parties who wished to speak.

Comments and Questions:

Mr. White noted there are no other large outdoor advertising signs along the north side for a mile. He considered the issues of the hardship are argumentative, but he felt that Mr. Moody made a good point on the hardship. Ms. Stead considered three signs in this short distance are too much.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell "aye"; no "nays"; Stephens "abstained"; no "absences") to **APPROVE** the Verification of spacing requirements for an outdoor advertising sign (Section 1221.F.2);

And

On **Motion** of **Stead**, the Board voted 2-2-0 (Henke, Stead "aye"; White, Tidwell "nay"; Stephens "abstained"; no "absences") to **DENY** a Variance of the maximum permitted display surface area for signs in a CS district (Section 1221.F.17 and D.3) to permit a 400 sq. ft. outdoor advertising sign, finding it would 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:

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

OTHER BUSINESS

Modification of Minutes from January 12, 1999

Regarding legal description of Case No. 18285.

Mr. Cuthbertson presented the information that the correct legal description was used throughout the case and file, but details were omitted from the legal description in the minutes only.

Board Action:

On **MOTION** of **Tidwell**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the amended legal description of Case No. 18285 in the minutes of January 12, 1999.

There being no further business, the meeting adjourned at 3:02 p.m.

Date approved: 3/13/07


Chair

