

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 955
Tuesday, April 24, 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**

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, April 19, 2007, at 2:45 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.

UNFINISHED BUSINESS

Case No. 20458

Action Requested:

Variance of the maximum coverage of an unenclosed off street parking area in the required front yard in an RS-3 district to permit 30 ft. wide driveways for 3 car garages (Section 1303.D), located: West of South Guthrie Avenue and West 77th Street.

Presentation:

The applicant was not present. Chair stated the Board would hear the next case and come back to this one later.

STONEBROOKE GLENN ADDITION, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 20479

Action Requested:

Special Exception to permit a carport in the required front yard in an RS-3 (Section 210.B.10); Variance of the side yard setback for a carport to .5 ft. (Section 210.B.10.b); and a Variance of the height of a carport (Section 210.B.10.d), located: 3152 South Cincinnati Avenue.

Presentation:

Lou Reynolds, 2727 East 21st Street, submitted a map and photographs (Exhibits A-1 and A-2) of carports in the neighborhood. The applicant's home caught on fire and so they replaced the old carport with a new one. They built in the same place as the former carport. They were matching it to the ridgeline of the existing house roof and the size of the previous carport.

Comments and Questions:

In response to questions from the Board, Mr. Reynolds stated he was not sure they obtained a building permit. He replied that it was within a half foot of the neighbor's yard. He added they did not realize that they needed a building permit to replace the structure. When they found out, they went to file for a building permit. He informed the Board they would paint it to match the house and add guttering. They left it open to avoid interfering with the site-line on the street. He stated they talked with the surrounding neighbors and found them support of the application. They do not plan to enclose the top to make it look less intrusive.

Interested Parties:

Jodi Walsh, 3131 South Cincinnati, disagreed with the applicant, stating the carport was above the ridgeline of the garage by about two feet. She stated it came out too far from the building line. She added that the previous carport did not burn but it was torn down.

Applicant's Rebuttal:

Mr. Reynolds responded that the metal carport did not burn down but was damaged by the fire and looked badly. The carport will be painted and match the color of the house. He added this type of carport does not look terribly uncommon in the area.

The Board members discussed the size and height as too large and too much height. They commented they could not find a hardship.

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 **DENY** a Special

Exception to permit a carport in the required front yard in an RS-3 (Section 210.B.10); Variance of the side yard setback for a carport to .5 ft. (Section 210.B.10.b); and a Variance of the height of a carport, finding a lack of hardship and finding it would be harmful to the neighborhood, on the following described property:

N.60 LT 7, PEEBLES SECOND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

UNFINISHED BUSINESS

Case No. 20458

Action Requested:

Variance of the maximum coverage of an unenclosed off street parking area in the required front yard in an RS-3 district to permit 30 ft. wide driveways for 3 car garages (Section 1303.D), located: West of South Guthrie Avenue and West 77th Street.

Presentation:

Randy Branstetter, 802 West Main, Jenks, Oklahoma, stated the subdivision they are developing is 141 acres. In Phase II of this development, the houses will range in value from \$350,000 to \$450,000. This market is demanding a three-car garage. He noted the Board approved a variance of the exact same nature for Phase I.

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 Variance of the maximum coverage of an unenclosed off street parking area in the required front yard in an RS-3 district to permit 30 ft. wide driveways for 3 car garages (Section 1303.D), and this approval applies to the entire Stonebrooke Glenn Addition, finding the marketing trends have changed since the zoning code was established and that this is an exceptional circumstance; and 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, on the following described property:

NEW APPLICATIONS
CONTINUED

Case No. 20481

Action Requested:

Special Exception to permit a mobile home in an RS-3 district; and a Special Exception to permit the home permanently, located: 152 South 36th Place West.

Presentation:

Kellie Lara, 25488 East 161st Street South, stated she is the current owner of the mobile home to be placed on this property. She represented the buyers of the home. There are three mobile homes in this area and there are burned out homes. The mobile is a 1982 model, three bedroom, two bath.

Interested Parties:

Kelly Pendleton, 120 South 36th West Place, she was opposed to the mobile home because it would reduce the property values. The neighbors have been making improvements. The mobile home does not fit the character of the neighborhood. She submitted a petition of opposition and photographs (Exhibits B-1 and B-2). She pointed out the new homes in the area. Ms. Pendleton noted the mobile home would be situated the wrong direction on the lot, facing directly to the next door neighbor. The existing homes face the street.

J.D. Smith, President of the Charles Page Neighborhood Association, 116 South 43rd West Avenue, stated opposition to the application.

Applicant's Rebuttal:

Ms. Lara responded there are still other mobile homes, including one with a large extension.

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 **DENY** a Special Exception to permit a mobile home in an RS-3 district; and a Special Exception to permit the home permanently; finding special exception 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:

LT 17 BLK A, JOE SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 19899-B

Action Requested:

Modification to amend a previously approved site plan for the University of Oklahoma -Tulsa for the addition of the Cancer Diagnostic and Diabetes Center to the Research and Medical Clinic and additional parking spaces, located: 4502 East 41st Street South.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, represented the University of Oklahoma at Tulsa. He provided plans and development standards (Exhibits C-1 and C-2). The plans show the additional parking spaces. They maintained the setback from the west boundary. One neighbor has complained of outbound lights in the wintertime shining into their home. The administration agreed to increase the density of the evergreen trees in that location to prevent the lights from shining into that home. The plan does not show the additional evergreens but they do not object to the Board adding it as a condition.

Interested Parties:

Gary Hall, 4111 South Sandusky, was opposed to an extension of time for construction.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Modification to amend a previously approved site plan for the University of Oklahoma -Tulsa for the addition of the Cancer Diagnostic and Diabetes Center to the Research and Medical Clinic and additional parking spaces, per plan, including the landscape plan, with the planting of additional evergreen trees in between the second lot on the east side of Sandusky Avenue south of 41st Street and the campus drive; and following the developmental standards provided in today's agenda packet, finding 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:

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. 20482

Action Requested:

Variance of the maximum permitted display surface area for a church sign in an RS-3 district (Section 402.B.4) and a Variance to permit an LED message board in an RS-3 district (Section 402.B.4.a), located: 1055 North Garnett Road.

Presentation:

John Edmundson, Chairman of the Town and Country Christian Church, stated they proposed to replace an existing metal sign with a new sign and enhance the visibility of the church. They planned to increase the surface area size by two feet and eighteen inches, with the addition of an LED and removable plaques that can be changed as needed. It will not be over 17 ft. tall from the ground. That will be the shortest sign on the block. He pointed out this property is surrounded by International Harvester, several motels and a restaurant. A site plan was provided (Exhibit D-1).

Interested Parties:

Nancy Craten, 245 South 120th East Avenue, with Western Village Association, stated the church is a wonderful neighbor. They were in support of this application. She did not think it would bother the neighbors because it is at a different angle.

Applicant's Rebuttal:

Mr. Edmundson stated this sign will have the capability of running, blinking, and flashing lights, but they do not have to use it. He added there is commercial and light commercial all the way around the property except behind it. There are seven homes to the back to the east and two homes across Garnett Road.

Ms. Stead commented that the church needs the sign for the visibility and she was in favor of the sign. Mr. White was in favor of the application. Mr. Henke wanted to keep the motion consistent with previous, similar motions. Ms. Stead commented on the history of previous motions regarding LED signs and the usage of those same signs is not in compliance. Mr. Alberty responded there is industrial zoning to the north and west and even the subject property could be zoned industrial. He stated there is commercial property to the south and they could have an LED sign without any restrictions or approval from this Board.

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 Variance of the maximum permitted display surface area for a church sign in an RS-3 district (Section 402.B.4) and a Variance to permit an LED message board in an RS-3 district (Section 402.B.4.a), per plan, finding that the church location is setting back from the main street that it creates a hardship as to this particular land and building involved; finding that most property around the subject property is industrially zoned; 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 the variances 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 220W NEC NW NW SW TH S330 W440 N330 E440 POB SEC 32 20 14 ,
City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20483

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign (Section 1221.F.2), located: 1139 South Frankfort Avenue East.

Presentation:

Lorinda Alizando, 7777 East 38th Street, represented Lamar Outdoor. She submitted an aerial and a letter from Harden and Associates (Exhibit E-1 and E-2).

Interested Parties:

Charles Satong, P.O. Box 3287, Tulsa, Oklahoma, stated he owns property at 1224 South Elgin and 1218 South Frankfort. He received notice of this application and wanted to more about it. He mistook a sign on top of a building as a billboard.

Ms. Alizondo indicated she could speak to Mr. Satong's concern. She stated the sign was removed and it would not be allowed there.

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 an outdoor advertising sign, as submitted by Harden and Associates, on the following described property:

LTS 3 THRU 9 LESS S10 LT 9 BLK 7, ELM PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20485

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, located: 9001 South Union Avenue.

Presentation:

John Moody, attorney, presented the case for an outdoor advertising sign on the subject property. He referred to a sign on Muscogee (Creek) Indian Nation land to the north and questioned if it would be considered in verifying the spacing of the sign on the subject property. He referred to a certificate from Sack and Associates stating there is not a sign to the south within 1,200 ft. and that there is a sign 941 ft. to the north of the proposed site, erected by the Muscogee (Creek) Nation. The subject property is zoned both corridor and as a Planned Unit Development (PUD).

They filed a major amendment to the corridor and PUD and presented to the planning commission and city council. He stated that the sign on the Indian land is an unregulated sign and the ordinances do not apply to the verification of spacing by the regulations of the state and federal government, per an email from the head of the Outdoor Advertising Control Branch with the Oklahoma Department of Transportation, Monte Smith (Exhibit F-1).

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

He noted that the planning commission did not require approval by the Board of Adjustment. He held that the sign was not subject to the spacing requirement from the sign on tribal land.

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

Comments and Questions:

Mr. White asked if the planning commission and city council were dealing with only the Indian land sign. He also asked if he came to the Board to verify spacing from any other signs, primarily the one to the south.

Interested Parties:

Russ Hargrove, 4109 South Florence Court, represented his family, owner of the two tracts south of the subject property. The applicant answered his primary question of the spacing between the sign on his family's property and the proposed sign.

Mr. Ackerman pointed out that the spacing requirement in the zoning code is 1,200 ft. from any sign. Mr. Alberty stated that regardless of what the planning commission did with the PUD, they cannot wave this requirement. The applicant is responsible for verifying the spacing.

Applicant's Rebuttal:

Mr. Moody responded that the approved site plan submitted with the PUD at the planning commission hearing showed the text exactly as they represented. He stated all of the information was there and they were aware of the Indian Nation's sign. Mr. Moody informed the Board that to say if we put up our sign first there is not a problem, but not if the Indian Nation puts one up first; it is called an unauthorized and unconstitutional delegation of legislative authority. You cannot delegate the authority to the tribe to permit and put up a sign and then prohibit and deny his client the same equal protection of the law.

Mr. Henke suggested they continue this case and give the Board time to look at the case more closely and make a well-reasoned decision.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences"), with the attorney's consent, to **CONTINUE** Case No. 20485 to the meeting of May 22, 2007, on the following described property:

A tract of land in the southwest quarter of the southwest quarter (sw/4 sw/4); of Section 14, T-18-N, R-12-E of the IB&M, Tulsa County, Oklahoma, described as follows: commencing at the southwest corner of said SW/4 SW/4; TH N 0°00'15" E along the W In of said SW/4 SW/4 927.95 ft; TH S 89°51'09" E 50 ft. to the POB; TH S 89°51'09" E 514.20 ft. to a pt on the W ROW of US Hwy 75; TH S 11°15'52" W along the W ROW In of US Hwy 75 210.09 ft; TH S 22°34'52" W along the W ROW In of US Hwy 75 51 ft; TH S 11°15'52"W along the W ROW In of US Hwy 75 185.18 ft; TH N 89°51'09"W 417.43 ft; TH N 00°00'15" E 435.00 ft. to the POB.

Case No. 20164-A

Action Requested:

Modification of a previously approved site plan for residential in a CS district to increase the size of a planned detached accessory building, located: 2451 North Gilcrease Museum Road.

Mr. Henke out at approximately 2:33 p.m.

Presentation:

Brandon Jackson, 320 South Boston, Suite 1026, represented the applicant. They proposed to move an accessory building to the north and west and increase the size to a 60' x 40' structure. He stated the gated entry would be the same with brick pillars and a stonewall. They plan to store their personal boat and recreational vehicles. A modified site plan and elevation were provided (Exhibits G-1 and G-2).

Interested Parties:

There were no interested parties who wished to speak.

Mr. Henke returned at 2:36 p.m.

Board Action:

On **Motion** of **White**, 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 for residential in a CS district to increase the size of a planned detached accessory building, per the modified plan submitted today, finding the plan 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:

THE E 280 FT OF THE W 330 FT OF THE S 463.33 FT. OF THE N 523.33 FT OF NW/4 OF NW/4 OF SEC 27 T-20-N R-12-E OF IB&M OSAGE COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE US GOVT SURVEY

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Case No. 20487

Action Requested:

Special Exception to permit automotive restoration (Use Unit 17) in the CS district (Section 701), located: 107 South 111th Avenue East.

Presentation:

Larry Bower, 5702 East Admiral Place, stated he owns Yesteryear Classic Auto, LLC.

Comments and Questions:

Ms. Stead asked Mr. Bower if he knew the Board would require asphalt or concrete over the entire lot. Mr. Bower replied he did not know. She explained that it was on an industrial street with very nice properties along that street. She stated the gravel on his lot looks totally out of place. She questioned the hours of operation that the applicant stated. Mr. Bower responded that most of their business was from out of state customers and the hours of operation are for the convenience of the owner and employees. He indicated that they do not need more hours.

Mr. Bower stated they restore GTO's, Camero's and Chevelle's, from minor to full-frame restorations. He added they would be stored inside for security and protection of the parts.

Ms. Stead asked if they sell vehicles. Mr. Bower replied that they sell some of the cars they restore. He stated all cars are kept inside and no outside storage or display.

Interested Parties:

Jim Mautino, with Tower Heights Neighborhood Association, stated that he came at the request of Wayne Bohanon from the Wagon Wheel Addition. He stated they were opposed to such a large Use Unit 17 in this area. They were concerned that the business would change like a previous business with outside storage of parts.

Nancy Craten, stated she is the President of Western Village Neighborhood Association, a neighborhood of 565 homes. She stated they have very little CS in the area. The restrictions need code enforcement and they do not feel the restrictions protect their neighborhood. She commented that the subject property

was just recently cleaned up. They were opposed to the application as not in harmony with the neighborhood.

Dennis Troyer, City Councilor, 6th District, 12811 E 13th Place, stated he was there on behalf of some of the neighbors in Wagon Wheel Addition. He noted property west and across the street from the subject property that has cars parked on grass. He met with Mr. Bower and was impressed with his existing facility. They were concerned about outside storage. He thought the time limit on the approval is a good idea.

Ms. Stead confirmed with Mr. Bower that he would accept an approval with a five-year time limit. She reminded him at the end of the five years he would have to come before the Board to renew approval if he chose. Mr. Bower accepted the time limit. Mr. Tidwell asked if Mr. Bower would be willing to pave the surface with concrete or asphalt. Mr. Bower replied that he would.

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 automotive restoration (Use Unit 17) in the CS district (Section 701), subject to all restoration repairs to be done inside; hours of operation to be 7:30 a.m. to 4:30 p.m., Monday through Friday; no outside storage of inoperable vehicles, materials or parts in plain view of 111th East Avenue; all surfaces of the property west of building and east of fence to be concrete or asphalt all areas; no outside advertising of any cars for sale; such sales being accessory to cars restored and owned by the owner only; approval is for a period of five years from today's date, April 24, 2007; 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 2 BLK 3, LT 3 BLK 3 , WAGON WHEEL TRADE CENTER, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 3:25 p.m.

Date approved: 5/22/07


Chair

