

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 959
Tuesday, June 26, 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 Friday, June 22, 2007, at 11:16 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. 20520

Action Requested:

Variance of the front yard requirement to permit residential expansion in an RS-1 district (Section 403); a Variance of the maximum permitted coverage for a driveway in the required front yard from 25% to 52% to permit a circular driveway, located: 3018 South Trenton East Avenue.

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 **CONTINUE** Case No. 20520 to the meeting on July 10, 2007, on the following described property:

PT EA LTS 8 & 9 BEG SWC LT 9 TH NW186.15 N28.5 E141.37 TO PT LT 8 S122 WLY82.6 TO BEG BLK 5, AVALON PLACE, City of Tulsa, Tulsa County, State of Oklahoma

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 Minutes of June 12, 2007, 2007 (No. 958).

UNFINISHED BUSINESS

Case No. 20513

Action Requested:

Request for refund.

Presentation:

Mr. Cuthbertson stated this is a partial refund, as staff did some work on this application.

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** the recommended refund of \$575.00, on the application regarding the following described property:

PRT NE SW BEG 185.23N & 30E SWC SW NW NE SW TH E76.7 TH ON A CRV156.59 TH E137.2 N TO NEC SW NW NE SW W TO A PT 30E OF NWC SW NW NE NE SW TH S POB SEC 5 18 13 1.12AC, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20497

Action Requested:

Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, pawn shops and another liquor store (Section 1214.C.3), located: 6161 South 33rd Avenue West.

Presentation:

Thomas Burns, 2855 East 21st Place, submitted a letter (Exhibit Z-1) to the Board. He asked to be able to start construction before Labor Ready moves out of the center.

Questions were raised as to whether the liquor store could meet the spacing verifications prior to Labor Ready's lease expiration.

Comments and Questions:

Mr. Ackermann suggested the Permit Center might be able to help Mr. Burns with interior construction permits prior to the veification.

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 **CONTINUE** Case No. 20497 to the meeting on August 14, 2007, on the following described property:

LT 1 BLK 1, SUNWEST HIGHLANDS PLAZA, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 20515

Action Requested:

Appeal the determination of the Tulsa Preservation Commission approving a duplex unit on April 26, 2007, located: 1401 East 17th Place South.

Ms. Stead commented that though some interested parties may want to speak regarding on-street parking, she did not think that issue was appropriate for this case. She asked staff and the attorney if they could discuss the lower level parking. Mr. Alberty responded that this appeal should not be for the use, but the use must meet the requirement for off-street parking.

Mr. Henke asked Mr. Atkins what he was appealing. Mr. Atkins responded that he was appealing the whole Tulsa Preservation Commission's Certificate of Appropriateness procedure, the guidelines and failure to meet the code.

Mr. Ackermann reminded the Board that the City has not dealt with some of the parking issues yet. It is not the responsibility of the Tulsa Preservation Commission or the Board of Adjustment to review parking requirements.

Presentation:

Paul Atkins, 1638 East 17th Place, stated he was appealing the COA, stating it did not meet the Zoning Code Section 1055.C. He asked for an additional five minutes if he was not through in ten minutes. He contended that the TPC sub-committee member that made the motion on this case was not a valid member at the time. He listed a history of projects similar to this case. He submitted letters of opposition and aerial photographs (Exhibits A-2, A-3). He was showing a time line for the property's development after 1970 and the absence of a six-car garage. He referred to the minutes and attachments of the Special TPC meeting for this COA case (Exhibit A-1). He indicated there were inconsistencies regarding RM-2 setback guidelines and form. He offered two color-coded maps (Exhibits A-4 and

A-5) to provide more information regarding the multi-family structures in the neighborhood.

Mr. White informed Mr. Atkins his ten minutes were up and asked if he wanted to use the five minutes allowed for rebuttal. Mr. Atkins replied that he did.

Mr. Atkins reviewed more of the communication from the special meeting minutes and stated they overlooked ordinance 1055.C. He indicated the impression of the TPC was that their guidelines were the only thing they have to consider. He pointed out some one and two-story duplexes in the Orcutt Addition when it was platted in 1912. He commented on parking issues and building materials. He noted they never mentioned the degree to which the work would destroy or alter all of the historic resource, during the meeting. He stated there is no precedent for three-story duplexes in the area. He added that the sloped roof was not present in 1912. He stated the six-car attached garages would also be a new visual element.

Interested Parties:

Jim Turner, Chair of the TPC, stated Ed Sharrar would assist in a power point presentation, including photographs. There was a rendering of the proposed improvements to the property. He reviewed the members present at the TPC hearing and added they have about 50 years of cumulative experience on the commission. He briefly reviewed the Scope of COA, with guidelines of new construction. He stated they gave every resident who wished to speak during the TPC review an opportunity. They consider the degree to which the proposed work is consistent with the design guidelines, which had been approved and adopted, specific to Swan Lake. Their review is not according to the zoning code but more aesthetics, such as how a structure lines up with adjacent properties. They found the paving within the front yard, not to exceed the amount they have in the guidelines. Landscaping features, such as but not limited to walls, fencing, lighting and planters, should be consistent with the general character of those along the same street. The elevation presented for this case was presented as rubbed concrete wall. Engineering systems, such as air conditioning and utility meters, should be placed on the rear or side facades. Designs for new construction need not duplicate existing styles within the district but should draw upon common characteristics of structure for the period of time in which each addition was originally platted to provide continued continuity and consistency. Characters, such as but not limited to porches, entries, roof slope and form and window and door styles should maintain the continuity and consistency of new construction within the district. New construction should respect the established area's scale, proportions, rhythms, and relationships of both principal and accessory structures. There were no accessory structures on this building. New construction should maintain the established height of those structures along the same street. Materials and elements should maintain the visual characteristics, scale proportion, directional orientation and rhythms that are created by the materials on existing structures and should always maintain the districts overall appearance and character. Mr. Turner showed in comparison the surrounding and adjacent structures with similar roof pitch and brick on all four sides. He added that the

design guidelines do not address use, whether single-family or multi-family use. He stated that the presence of existing, multi-story structures, similar to the proposed structure on that same street caused them to think it would be appropriate. He read a statement of the significant characteristics of the Swan Lake Neighborhood out of their guidelines. It says that the Swan Lake area has more two and three story 1920 to 1930 multi-family apartments and duplexes than any other older residential area in Tulsa. The reason for the guidelines is to preserve and protect the resources of the historic neighborhoods.

Comments and Questions:

Mr. Henke asked if all of the committee members were fully informed on this application at the full commission meeting. Mr. Turner stated they were to his knowledge. Mr. White asked if, under the significant characteristics of a resource, the six-car garage was not considered one of the significant characteristics. Mr. Turner replied that it no longer existed and so was not considered.

Interested Parties:

Gloria Smith, 1728 South Rockford Avenue, stated she lives in single-family zoning and her property backs up to multi-family zoning. She has been actively involved for 30 years in preserving the neighborhood. She questioned adequate parking for the new structure and existing structure. She was in favor of the all-brick stipulation.

Richard Winn, Architect for the owners, stated he followed the guidelines in the application for this project. He added that his comments were the same as Mr. Turner stated.

Stacy Bayles, 1532 South Troost, Co-President of the Swan Lake Neighborhood Association, stated there are five members of the Executive Board Committee. She and four of the members and the neighborhood representative to the TPC Certificate of Appropriateness Committee, Mark Mobbs met April 23, 2007 at Mr. Winn's office to review the designs that were presented at the TPC and received a fuller explanation of the project. Four of the five committee members were present and in support of this project.

Mr. Henke out at approximately 2:05 p.m.

At the June Board meeting there were eight to ten people from the neighborhood who came to discuss the appeal. They were not as concerned with the design guidelines as they were with the parking.

Mr. Henke returned at 2:07 p.m.

The Board agreed to allow Mr. Atkins to have five minutes rebuttal time, as they felt he did not know the extra time he received was his rebuttal time.

Applicant's Rebuttal:

Mr. Atkins questioned the lack of quorum of the sub-committee members. He questioned why an attached six-car garage should be approved when detached garages are the dominant relationship of secondary structures in this development. Mr. Henke stated that Mr. Turner's point is that no structure exists, just a concrete slab. He called the proposed structure a glorified garage apartment. He asked if this is a multi-family structure or a duplex. Mr. Ackermann replied that a duplex is a building with two dwelling units and a multi-family dwelling, such as an apartment complex, is a building with three or more dwelling units. Mr. Atkins asked for the application to be returned to committee for review by qualified sub-committee members, to answer the questions he has raised regarding setback, parking and design.

Mr. White thought the eligibility of the sub-committee member was not part of the Board of Adjustment's consideration. Mr. Ackermann informed the Board that the only rule for a quorum of the COA sub-committee is that three members of TPC must be present and one of those members must be a member of the TPC professional group. He added that regardless of how many neighborhood representatives may be there, they cannot consider the applications until the regular members come in. So the one neighborhood representative present is not illegal. The Board chose not to deal with this issue presented by the applicant. Mr. White noted the conflict on the design issues. He thought the TPC exercised the criteria they had to make a decision for the COA. He indicated there could be some zoning issues. Mr. Alberty stated the dictates are whether you meet the design requirements for the district. He added that district permits multi-family-attached, single-family and duplexes. They don't have to be in the same building, they could be split. The prevailing interest is if they fall within the density permitted in that district; maintain livability space; meet the parking requirements and setbacks. They would need a lot-split if they changed to separate ownership. Mr. Henke stated they correctly issued a COA.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") in Case No. 20515 to **DENY** the appeal of the determination of the TPC, on the following described property:

LT 9 BLK 22 & 10' VAC. ALLEY, ORCUTT ADDN, City of Tulsa, Tulsa County,
State of Oklahoma

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Case No. 20517

Action Requested:

Appeal the determination of the Tulsa Preservation Commission's conditions to an approved Certificate of Appropriateness, located: 1401 E 17th PL S.

Presentation:

Richard Winn, 1530 South Harvard, Architect, stated the appeal is regarding sheathing the entire structure and retaining wall in brick as opposed to the desired masonry. He added that the majority of structures built within the Swan Lake Historic district are entirely sheathed in siding or a combination of masonry and siding. Many of them have been painted the same color to disguise the masonry. He pointed out numerous similar projects and combinations.

Comments and Questions:

Mr. Stephens asked Mr. Winn if he would agree that the majority of multi-family structures in the neighborhood were of brick material. Mr. Winn replied that he believed they have a basis of brick, but not necessarily entirely brick. He specified many of them are red brick. He agreed that was the color used when the neighborhood was developed, but a number of infill projects did not follow through with the same color.

Interested Parties:

Jim Turner, Chair of the TPC, provided a Power Point presentation showing other structures surrounding the subject property. He stated the three conditions on the approval of the COA. All of the garages were to be treated in a similar manner with doors. They required brick all the way around the building and the retaining wall. The guidelines and existing structures in the neighborhood do not support the change of materials on other sides of the building.

Chip Atkins, 1638 East 17th Place, stated the structure should be all brick exterior.

Gloria Smith, 1728 South Rockford Avenue, was concerned about the setbacks from single-family zoned properties, her property specifically. She was in favor of brick on the wall.

Comments and Questions:

Ms. Stead asked Mr. Winn to describe the brick he presented to the TPC in his presentation. Mr. Winn replied that it is a modular red brick, which is a description of the size of the brick. She asked if the color was shown to the TPC, he replied that it is the color shown in Mr. Turner's presentation and it indicated red.

Applicant's Rebuttal:

He stated he went to the sub-committee and TPC, then back to the committee and TPC again. In all the different versions that were presented to them it always had the siding on the east, west and north sides of the building. He stated it was not until the final TPC meeting that the subject came up about the siding. He added that if it had come up sooner they might have done something differently. Mr. Winn pointed out the building directly north of the subject property and many other buildings in the neighborhood have nothing but siding. He stated they are trying to create a balance between the two materials, using a darker paint.

Mr. White stated he has voted for appeals regarding building materials on single-family residences that did not agree with the TPC request. However, this is one lot with two buildings and he felt the historical resource would dictate that the second building look like the first since it is on the same lot.

Board Action:

On **Motion of Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") on Case No. 20517, to **DENY**, the appeal of the the determination of the Tulsa Preservation Commission conditions to an approved Certificate of Appropriateness, on the following described property:

LT 9 BLK 22 & 10' VAC. ALLEY, ORCUTT ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20518

Action Requested:

Special Exception to permit a duplex in an RS-3 district (Section 401) to permit porch coverage on an existing duplex dwelling; a Variance of the maximum permitted coverage of a required rear yard by a detached accessory building from 30% to 45% (Section 210.B.5.a); a Variance of the maximum height of a detached accessory building in the required rear yard (Section 210.B.5.a); and a Variance of the maximum square footage permitted for a detached accessory building (Section 402.B.1.d); to permit the reconstruction of a detached garage, located: 1617 South Lewis Avenue.

Presentation:

Keli Hearon, 7622 South 5th Circle, Broken Arrow, Oklahoma, stated her existing two-car garage is collapsing. She proposed to replace it with a four-car garage with a second story above it, similar to the first.

Comments and Questions:

Ms. Stead asked if she could reduce the windows on the east side. Ms. Hearon replied that she could eliminate the windows on the east side. The second story would be for storage only. She did not want a rental unit on the second floor. She did not plan to use it for commercial. Mr. Stephens asked if there would be garage doors. Ms. Hearon replied it is for covered parking, without doors, and French doors to a patio on the second level.

Interested Parties:

Joan Crager, 1620 South Lewis, stated she owns a duplex 1610 and 1612 South Lewis. She supported the application.

Carol Lambert, 2508 East 28th Street, President of the Lewiston Gardens Neighborhood Association, was in support of the project. She had concerns regarding the second story, regarding design guidelines from the standpoint of site lighting, windows, site coverage, setbacks and the height. She stated they have not had time to check that and asked for a continuance. She was opposed to any plumbing in the garage. Ms. Stead stated that Councilor Barnes left word for the Board that she had no concerns when she left this meeting. Mr. Cuthbertson verified that all of her issues were resolved. Ms. Stead responded that the height cannot be an issue. Ms. Lambert acknowledged that the Board addressed the windows. She mentioned design guidelines for the second floor windows in the newly approved Lewis Study. Ms. Stead asked when the design guidelines would go into effect. Ms. Lambert replied it was passed last Thursday by City Council before this meeting.

Susan McKee, 1616 South Victor, Vice-President of Yorktown Neighborhood Association, was in agreement with the other interested parties. She also pointed out the Lewis Study states the primary entrances shall be oriented to the front of the property facing Lewis.

Mr. White asked for the period of time for these guidelines to be a part of the code where the Board would act on them. Mr. Alberty replied that he had not received any communication from City Council regarding the study and code amendments. He stated it could be months before it becomes a part of the code.

Ms. Hearon referred to the most current rendering of the proposed structure. She stated that she personally delivered a letter to the homes within 500 ft. radius of her home. She felt that she had given everyone time to contact her about her plans. She stated no one contacted her until the day before this hearing. She has been working on this project for a year and she would like to complete it.

Ms. Crager interjected that the primary entrance is for cars. She stated that by the guidelines the windows on the south and north sides should be non-opening and opaque.

Ms. Hearon stated that the second floor windows of the duplex looking out over the neighbor to the north and to the south are a non-issue. She wanted clear-view window for the light source. She stated she could eliminate the east windows.

Mr. Ackermann stated he did not know of any ordinance going with the Lewis Study. The study guidelines are not enforceable.

Board Action:

On **Motion** of **White**, to **APPROVE** a Special Exception to permit a duplex in an RS-3 district (Section 401) to permit porch coverage on an existing duplex dwelling; 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; and approval of a Variance of the maximum permitted coverage of a required rear yard by a detached accessory building from 30% to 45% (Section 210.B.5.a); a Variance of the maximum height of a detached accessory building in the required rear yard (Section 210.B.5.a); and a Variance of the maximum square footage permitted for a detached accessory building (Section 402.B.1.d); to permit the reconstruction of a detached garage, with these limitations: no windows on the east side of the proposed structure; that the north and south side windows be non-opening; no commercial activity on the property; and no plumbing in the garage; finding the narrowness of the lot; and finding 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,

Ms. Stead asked if they needed to approve per the revised plot plan. The second and motion were withdrawn, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to re-open the motion.

On **Amended Motion** of **White**, 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 a duplex in an RS-3 district (Section 401) to permit porch coverage on an existing duplex dwelling; 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; and approval of a Variance of the maximum permitted coverage of a required rear yard by a detached accessory building from 30% to 45% (Section 210.B.5.a); a Variance of the maximum height of a detached accessory building in the required rear yard (Section 210.B.5.a); and a Variance of the maximum square footage permitted for a detached accessory building (Section 402.B.1.d); to permit the reconstruction of a detached garage, with these limitations: no windows on the east side of the proposed structure; that the north and south side windows be non-opening; no commercial activity on the property; and no plumbing in the garage; per the revised plot plan, which basically shows the footprint of the accessory building; finding the narrowness of the lot; and finding 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:

S 50' OF W 145' LT 13, GLEN ACRES, City of Tulsa, Tulsa County, State of Oklahoma

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Mr. Stephens out at 3:40 p.m.

Case No. 20519

Action Requested:

A Variance of the maximum permitted square footage for detached accessory buildings in an RS-1 district to 1,551 square feet (Section 402.B.1.b), located: 8191 East 16th Street South.

Presentation:

J. R. Robbins, 8191 East 16th Street, purchased the subject property, though the accessory building was smaller than he wanted. He stated that the properties around his have very large accessory buildings. He added onto his accessory building for a hobby shop. A plan was submitted (Exhibit C-1).

Mr. Stephens returned at 3:43 p.m.

Mr. Henke out at 3:43 p.m.

He was not aware of the need for a building permit. He stated he did not need any more accessory building footage beyond what currently exists and is subject to this request.

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

Ms. Stead noted he owns Alliance Refrigeration Service. Mr. Robbins replied that he owns Alliance Refrigeration, Inc. He added that he does not run his business from his hobby shop. He services commercial restaurants and buildings, doing the work on site. She asked him about a Snap Tool truck parked on his property. He responded that he uses it for his remote control car hobby. He has his truck up for sale. She asked him for a hardship. Mr. Robbins suggested the size of the property is his hardship.

Interested Parties:

Jack Booth, 10336 South Vandalia, stated his support of the application. He confirmed that the applicant does not operate his business from the subject property.

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 permitted square footage for detached accessory

buildings in an RS-1 district to 1,551 square feet (Section 402.B.1.b), with the condition for no commercial activity and no living quarters in the buildings mentioned, by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, which contains one acre, 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, per plan, on the following described property:

E1/2 S1/2 LOT 1 BLK 3 , O'CONNOR PARK, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20521

Action Requested:

Variance of the maximum number of dwelling units permitted on a lot of record in the RS-3 district (Section 207) to permit an accessory dwelling unit or in the alternative a Special Exception to permit a duplex in an RS-3 district (Section 401), located: 4301 South Madison Place.

Mr. Henke recused himself and left the room at 3:50 p.m.

Ms. Stead referred to staff comments, and asked city legal and staff about a detached accessory dwelling unit in an RS-4, 3 or 2 district can only have 40% of the principle dwelling or 500 sq. ft. She noted the applicant is asking for more and did not think the Board could consider it an ADU under the code because it is not advertised for more than 635 sq. ft. or as advertised for 770 sq. ft.

Mr. Cuthbertson stated he proceeded from the understanding there is an existing structure, whether detached or not. The proposal is to convert the existing garage into living quarters. Mr. Cuthbertson added that he has not asked to create a detached accessory building or add to a principle dwelling so he did not think it would be necessary to address setback requirements or square footage requirements. He continued the Board could determine it was detached as it exists and he would have a garage out of compliance, illegal or not. Ms. Stead did not think they could consider it as an accessory dwelling unit when there is 770 sq. ft., which exceeds the code without request for relief. Mr. White noted that the existing building was already approved and this is just a conversion to living quarters. Mr. Cuthbertson considered that to divide the roofs would only require minor repair, as the two structures have finished exterior walls, making them two separate structures.

Presentation:

Mr. Lager, 4301 South Madison Place, stated the hardship is this is for a mother-in-law apartment for an elderly family member of the people living there.

Mr. Tidwell out at approximately 4:03 p.m. and returned at 4:05 p.m.

He stated that was his only hardship. He added that he had spoken with his neighbors and found them in support except for the one on the south that was opposed.

Interested Parties:

Charles Baker, 4317 South Madison Place, submitted a petition (Exhibit D-2) in opposition, and stated he represented the neighbors. He stated that Mr. Lager has never spoken with him. He submitted photographs (Exhibit D-3).

Mr. White out at 4:10 p.m.

Mr. Baker indicated the photographs pertained to the parking that is part of the reason for the objections.

Mr. White returned at 4:12 p.m.

He pointed out this is an established neighborhood. The neighbors have dealt with problems, such as wild parties, in the only other duplex in the neighborhood. They are opposed to any multi-family dwelling. He indicated that Mr. Lager does not live there and that he has violated the zoning code; cut the curbing and replaced the drive without permits; added electricity without inspection or permit and obtained a second address.

Herb Beatty, 3474 South Zunis, Co-President of the Brookside Neighborhood Association, stated their Board and the members they have heard from, are unanimously opposed to a duplex or multi-family dwelling.

Joyce Sanborne, 4348 South Madison Place, stated she was not contacted about the petition. She recognized the need for mother-in-law quarters for families. She provided a list of other properties in the neighborhood that have ancillary buildings and map (Exhibit D-1, D-4), which indicated several multi-family dwellings.

Applicant's Rebuttal:

Mr. Lager responded that he had permits for air-conditioning, plumbing, electrical work and curb cut and paving. He allowed someone to park a trailer on the property for only a few weeks.

Board discussion ensued.

Board Action:

On **Motion** of **White**, the Board voted 4-0-1 (White, Stephens, Stead, Tidwell "aye"; no "nays"; Henke "abstained"; no "absences") to **DENY** a Variance of the maximum number of dwelling units permitted on a lot of record in the RS-3 district (Section 207) to permit an accessory dwelling unit or in the alternative a Special Exception to permit a duplex in an RS-3 district (Section 401).

On **MOTION** of **Stephens**, the Board voted 4-0-1 (White, Stephens, Stead, Tidwell "aye"; no "nays"; Henke "abstained"; no "absences") to amend the motion.

On **Amended Motion** of **White**, the Board voted 4-0-1 (White, Stephens, Stead, Tidwell "aye"; no "nays"; Henke "abstained"; no "absences") to **DENY** a Variance of the maximum number of dwelling units permitted on a lot of record in the RS-3 district (Section 207) to permit an accessory dwelling unit and to **DENY** in the alternative a Special Exception to permit a duplex in an RS-3 district (Section 401); finding a would cause substantial detriment to the public good or impair the purpose, spirit and intent of the code or Comprehensive Plan; and finding the special exception will 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-1-BLK-2, PASADENA ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20522

Action Requested:

Special Exception of the floor area ratio maximum in an OL district to .37 (Section 603); and a Variance of the 1-story requirement in an OL district to 2-stories (Section 603), located: 3314 East 46th Street South.

Presentation:

Roy Farley, 45176 Eagle Bluff Drive, Afton, Oklahoma, asked for a continuance to July 10, 2007.

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 **CONTINUE** Case No. 20522, to the meeting on July 10, 2007, on the following described property:

LT 2 BLK 3, VILLA GROVE HGTS NO 1, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20523**Action Requested:**

Variance of the maximum permitted display surface area for signage in a CO district from 662 sq. ft. to allow an existing outdoor advertising sign (Section 802.B.3), located: 6423 South 104th Avenue East.

Mr. Cuthbertson stated the location was given as a general description for the site as there is not an address assigned to the property. The legal description advertised is correct.

Presentation:

Dennis Blind, 4645 South 83rd East Avenue, stated when the current landowners bought the 14-acre property there was an existing billboard on the southeast corner in an easement. When they were obtaining the corridor overlay plan approval from City Council, there was litigation regarding the sign. They did not know what the outcome would be; however, they were proceeding as if the billboard were to be removed. They continued in good faith with INCOG to identify the signage requirements for the entire development. The case was settled out of court, allowing the sign to remain on the property. This has produced a problem for the applicants. They would like to keep the signage for the rest of the development as they have already negotiated and be able to leave the billboard where it is. To reduce clutter, they would not have a freestanding sign on proposed Lot 3. Mr. Blind added that instead of asking for the allowed wall sign display surface area to be two square feet per lineal foot of building wall, that it be three feet per lineal foot of building wall, on Lot 3. A memorandum was entered as an exhibit regarding the square footage of the existing billboard (Exhibit E-1).

Comments and Questions:

Mr. Stephens asked if the landowners own the billboard, to which Mr. Blind replied they do not own it. Ms. Stead asked if Mr. Blind had read the staff comments and the copy of the existing corridor district standards. Mr. Blind responded that he had read them. She asked if they are going to comply with the applicable standards. Mr. Cuthbertson clarified that the standards in the packet are the existing ones for the property. They do not take into account the existing billboard, as they assumed the billboard would be removed. He explained that the applicant wants to modify the corridor site plan standards to incorporate the billboard. He is proposing to modify the existing standards to eliminate the ground sign on Lot 3 and increase the wall signage on Lot 3 from two sq. ft. to 3 sq. ft. Mr. Alberty reminded the Board that they have no authority over the corridor site plan. That is the prerogative of the planning commission and City Council. The corridor site plan was already approved based on the permissible square footage permitted by the code. Mr. Alberty continued, explaining that now the applicant is asking the Board, under consideration of the existing outdoor advertising sign, to give him the relief to increase the size of the wall sign. He agrees to eliminate one 125 sq. ft. free standing sign on Lot 3. The applicant will also go back to the planning commission for an amended corridor site plan to incorporate the proposed

changes. The total display surface area square footage would change from 662 sq. ft. to 1,334 sq. ft. along this frontage.

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 permitted display surface area for signage in a CO district from 662 sq. ft. to 1,334 sq. ft., to allow an existing outdoor advertising sign (Section 802.B.3), finding the hardship to be due to the settlement of a court case that the existing sign would remain; and finding these are extraordinary or exceptional conditions, which are peculiar to this 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:

LT-5-BLK-6, LOT-6-BLK-6, LOT-7-BLK-6, LT-8-BLK-6, LTS 9 & 10 BLK 6,
UNION GARDENS, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20524

Action Requested:

Variance of the rear yard requirement from 20 ft. to 3 ft. - 6 in. to permit an expansion to an existing dwelling in the RS-3 district (Section 403), located: 1602 South Knoxville Avenue East.

Presentation:

Clint Hoppes, 1547 South Jamestown, proposed to build an addition to the house. He stated the hardship is the north/south gable roofline and the existing structure position on the back of the lot. There is a concrete slab to the east that is about 12' x 28' and 16" thick at different levels. The orientation on the back of the lot is characteristic of the neighborhood. He provided a letter signed by nearby residents in support of the application (Exhibit F-2).

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 rear yard requirement from 20 ft. to 3 ft. - 6 in. to permit an expansion to an existing dwelling in the RS-3 district (Section 403), per plans, finding the unusual existing structure and the roofline create exceptional conditions and circumstances peculiar to the this land, structure involved, 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, on the following described property:

LT 20 BLK 6 , SUNRISE TERRACE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20525

Action Requested:

Variance of the setback from the centerline of E. 2nd St. from 50 ft. to 30 ft. to permit a small parking structure (Section 703), located: 108 South 111th Avenue East.

Presentation:

Jake Floyd, 1303 North Garnett Road, with Cramer Construction Company, stated they constructed a carport for Danco Pump and Supply Company. The original plan was for an open carport. During construction, the building was broken into at the back. The owner asked if they could enclose the carport. The enclosure triggered a 50 ft. setback from 2nd Street. He added that according to the zoning officer, if the walls were removed they would have to remain 50 ft. from the centerline or provide documentation that the sides would remain open. The carport is about 13 ft. 8 in. They had a permit to build the carport but when they enclosed it, they had to get relief for the setback. He provided the Zoning Review, photographs, and letters of support (Exhibits G-1, G-2, G-3). There is no electricity, heat or light to the building. It is strictly enclosed parking.

Interested Parties:

Tom Bingham, 1515 South Denver, represented David Stephens, the owner and operator of Stephens Cabinets. His company is located directly across the street from the subject property. He was opposed to the building existing in the setback. He thought it decreased the parking area and cause on-street parking. He indicated that they use the parking garage for storage, not parking.

Applicant's Rebuttal:

Mr. Floyd stated this is a CS district with commercial sales and residential streets, yet there is some industrial activity. He indicated there were deeper issues than on-street parking.

Board discussion ensued.

Board Action:

On **Motion** of **Tidwell**, to **APPROVE** a Variance of the setback from the centerline of E. 2nd St. from 50 ft. to 30 ft. to permit a small parking structure (Section 703); There was discussion on the motion, then the motion was withdrawn.

On **Motion** of **Stephens**, the Board voted 4-1-0 (White, Stephens, Henke, Tidwell "aye"; Stead "nay"; no "abstentions"; no "absences") to **APPROVE** a Variance of the setback from the centerline of E. 2nd St. from 50 ft. to 30 ft. to permit a small parking structure (Section 703), finding the literal enforcement of the terms of the code would result in an unnecessary hardship, by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved; 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:

LT 10 BLK 2, WAGON WHEEL TRADE CENTER, City of Tulsa, Tulsa County,
State of Oklahoma

*****.

Case No. 20526

Action Requested:

Variance of the maximum number of signs permitted in the OM district (Section 602.B.4.b) to permit an additional wall sign and a Variance of the maximum permitted display surface area for signage in the OM district (Section 602.B.4.c), located:

Presentation:

Lou Reynolds, 2727 East 21st Street, stated there was a previous BOA case and this is to ensure compliance with the zoning code. He listed the existing signs and proposed to add 145 sq. ft. to the wall sign and to add a fourth sign to the east wall. A plan was provided (Exhibit H-1). He pointed out the mature trees and that the building is not visible from the streets until you get right to the building. They are asking for less than the maximum signage that is allowed, which 150 sq. ft. He stated this is a high rise building on OM property with OL type regulations that were written for many small lots, and this is just one big lot.

Comments and Questions:

Mr. Henke noted if they modify the previously approved site plan that would resolve the issue. He commented that the problem with the variances would cause a precedent setting issue.

Interested Parties:

There were no interested parties who wished to speak. A letter of protest for more commercial lighting was provided to the Board (Exhibit H-2).

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 the previously approved variance of the maximum number of signs in an OM district; to permit an additional wall sign; and approve a modification of previously approved variance of display surface area for signage in an OM district, which was granted in Case No. 19411, on September 10, 2002; on the following described property:

S10 N160 W30 E86.4 LT 31 HARTER'S 2ND & LT 2 TEXACO CENTER AMD,
TEXACO CTR ADDN AMD RESUB PRT L18-19 & 30-31 HARTER'S SEC, City
of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 5:25 p.m.

Date approved: 7/24/07


Chair