

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 960  
Tuesday, July 10, 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, July 6, 2007, at 11:01 a.m., as well as at the Office of INCOG, 201 W. 5<sup>th</sup> St., Suite 600.

After declaring a quorum present, Chair Henke called the meeting to order at 1:00 p.m.

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Mr. Cuthbertson read the rules and procedures for the Board of Adjustment Public Hearing.

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**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 Avenue East.

**Presentation:**

The Board received a request for continuance to July 24, 2007.

**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. 20520 to the meeting on July 24, 2007, regarding 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

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## **UNFINISHED BUSINESS**

### **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 46<sup>th</sup> Street South.

Mr. Cuthbertson informed the Board that staff received a last minute letter concerning this parcel. Mr. Henke stated it is a letter of objection (Exhibit A-2) to the application from eight homeowners within 300 ft. of the subject property. Staff furnished a copy of the letter to the applicant. Mr. Cuthbertson informed the Board that the lady who supplied the letter appeared to be concerned with office encroachment into the neighborhood, intensity level, traffic and stormwater run-off.

#### **Presentation:**

**Roy Farley**, 451872 Cody Lane, Afton, Oklahoma, came before the Board. Mr. Henke asked him for the hardship for the variances. Mr. Farley replied that he could get more square footage with a two-story on this lot. He stated it would be the best use of the land and allow for plenty of landscaping. A plan was provided (Exhibit A-1).

**Matt Rigg**, 122 South Main, Broken Arrow, Oklahoma, stated he is Mr. Farley's attorney. Mr. Tidwell asked how they plan to landscape. Mr. Rigg replied they do not have a final landscape plan. He added that the total building height would be approximately 28 ft. from ground elevation.

#### **Comments and Questions:**

Mr. Ackermann reminded the Board that he will be required to meet the minimal landscaping standards, but if the Board wanted to add conditions for more, they could do so. Mr. White noted it is surrounded by OL zoning. Mr. Cuthbertson commented that the floor area is limited by the floor area ratio. He stated that whether it is one or two story, he is limited to 35% floor area ratio and he is asking for the special exception to increase it to 37%.

#### **Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **Motion of Stead**, the Board voted 4-1-0 (White, Henke, Stead, Tidwell "aye"; Stephens "nay"; no "abstentions"; no "absences") to **APPROVE** a 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), finding the 25,000 sq. ft. lot prohibits extensive landscaping and parking; and finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land 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; and in granting the Special Exception, finding it will be in harmony with the spirit and intent of the code and will not be injurious to the OL neighborhood, or otherwise detrimental to the public welfare, per plan, with condition that any lighting plan submitted for permit shall be per the Kennebunkport formula, 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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**NEW APPLICATIONS**

**Mr. Tidwell recused himself from Case No. 20365a.**

**Case No. 20365a**

**Action Requested:**

Minor Special Exception to modify an approved site plan to relocate and reduce the height of a bell tower, located: 2206 South Lewis Avenue East.

**Presentation:**

**Brian Freese**, 1634 South Boston, Freese Architecture, represented St. Joseph Monastery, home of the Nuns of the Benedictine Order. He reminded the Board that on October 24, 2006 this Board approved their request for minor modifications to a previously approved site plan. He showed the site plan with the new modifications (Exhibit B-1). They wanted to relocate the bell tower for better access and decrease the height of the design to 34 ft. 5 in. and decrease the footprint, also.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **Motion of Stead**, the Board voted 4-0-1 (White, Stephens, Henke, Stead "aye"; no "nays"; Tidwell "abstained"; no "absences") to **APPROVE** a Minor Special Exception to modify an approved site plan to relocate and reduce the height of a bell tower, said height being from 50 ft. to 34 ft 5 in., per plan as on pages 3.6 and 3.7 in the agenda packet, and 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:

BEG 630S & 40W NEC NE TH W1130 TO EL ST TH NELY139.6 NLY CV LF 45.63 TO SWC BLK 1 THE YORKTOWN TH E485.26 N82.39 ELY80.94 NE75.79 NE94.9 NE47.73 N182. 28 TO SL ST TH E APROX 302.33 SELY CV RT APROX 75.82 TO WL ST TH S APROX 507.33 POB SEC 18 19 13 8.40ACS, BRENTWOOD HGTS, YORKTOWN, THE, City of Tulsa, Tulsa County, State of Oklahoma

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**Mr. Tidwell returned.**

**Case No. 20527**

**Action Requested:**

Variance of the rear yard requirement from 25 ft. to 10 ft. (Section 403); and a Minor Special Exception to permit a 5 ft. reduction of the required front yard in an RS-1 district (Section 403), located: 2445 East 36<sup>th</sup> Place South.

**Presentation:**

**Patrick Kelly**, 2445 East 36<sup>th</sup> Place South, stated they requested relief to fit a new home on the unusually configured lot. They provided a plan to the Board (Exhibit C-1).

**Comments and Questions:**

Ms. Stead asked if the total height would be 30 ft. 6 in., to which Mr. Kelly verified that was correct. Ms. Stead noted letters from all of the neighbors in support, except for the neighbor to the north who would be closest to the variance. Mr. Kelly explained that neighbor is in a nursing home and difficult to reach.

**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 25 ft. to 10 ft. (Section 403); and a Minor Special Exception to permit a 5 ft. reduction of the required front yard in an



The rules are very different for the established business owner and the temporary businesses. He made the objection that this applicant's tent was set up without the appropriate permit and allowed to stay up.

**Applicant's Rebuttal:**

Mr. Ogilvy responded to insinuations that he does business the wrong way. He did everything that he thought he was supposed to do and hired a very capable person to obtain the permit, which was approved. He stated that over a month later he was contacted by the City and informed that he had made a mistake and he would have to go before the Board of Adjustment.

**Comments and Questions:**

Mr. Ackermann noted that the confusion was probably over which type of permit the applicant needed. When the drug store closed their store, the issue was brought to light.

**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 temporary produce and flower sales (Use Unit 2) in a CH district, subject to a total of 179 days; for sales allowed from April 25<sup>th</sup> through October 31<sup>st</sup>, as long as the adjoining business is not open or the property is not redeveloped, 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:

LTS 4 & 5 & PRT VAC ST BEG 50S & 50W NEC SEC 17 19 13 TH S108.9 TH ON CRV LF 157.6 TH E108.9 POB LESS W45 LT 4 & LESS S40 LT 5 BLK 3 , BONNIE BRAE, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20529**

**Action Requested:**

Variance of the maximum number of signs permitted in the OM district (Section 602.B.4) and a Variance of the maximum permitted display surface area (Section 602.B.4); to permit two additional wall signs on an existing structure, located: 1111 West 17<sup>th</sup> Street South.

**Presentation:**

**James Adair**, 7508 East 77<sup>th</sup> Street, for Claude Neon, proposed to build two signs to be added to Oklahoma State University Center for Health Sciences on the subject property. This contains a recognizable logo for directional help for clients, visitors and customers that would be visible from the expressway. The applicant provided site plans (Exhibit D-1).

**Erick Pollock**, 10476 South 86<sup>th</sup> East Avenue, represented the Oklahoma State University. He stated they were in agreement with the staff comments. This would bring the total number of signs to seven.

**Interested Parties:**

**Jessie Felmlee**, RR 1, Box 345, Cleveland, Oklahoma, stated she owns the property across the street from the subject property. She wanted to know the details of the sign plans.

**Sidney McNeally**, 2624 East 21<sup>st</sup> Street, Suite 2, attorney for Mrs. Felmlee, asked about the lighting and wattage.

**Applicant's Rebuttal:**

Mr. Adair stated the logo would be illuminated by internal lighting of less than 70 foot-candles at two feet.

**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 number of signs permitted in the OM district (Section 602.B.4) and a Variance of the maximum permitted display surface area (Section 602.B.4); to permit two additional wall signs on an existing structure, finding this will make a total of seven signs, three on the north side of the building, three on the south side of the building and one monument sign in front of the building; finding the logos applied for, will better identify the facility with recognizable land marks; and in granting this variance there are circumstances peculiar to the structure and buildings involved that 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, subject to the locations shown on page 6.6 of the agenda packet, details of the logos on page 6.7; noting this provides for two additional logos instead of three as shown on page 6.7, on the following described property:

ALL BLK 5 & N35 VAC ST ADJ ON S BETWEEN RR R/W & JACKSON AVE ,  
RIVERVIEW PARK SECOND ADDN RESUB, City of Tulsa, Tulsa County, State  
of Oklahoma

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**Case No. 20530**

**Action Requested:**

Variance of the maximum permitted square footage for accessory buildings in an RS-1 district from 750 sq. ft. to 986.25 sq. ft. (Section 402.B.1.d), located: 6559 East 25<sup>th</sup> Place South.

### **Presentation:**

**Paul Matthews**, 6559 East 25<sup>th</sup> Place, stated the hardship for this variance is that he is limited by the RS-1 zoning, which is 13,500 sq. ft. He added that his lot is one acre plus, 45,000 sq. ft. He provided the site plan and photographs (Exhibits E-1 and E-2) to show his property and proposal. He pointed out the loafing shed has details of the home. It is 236 sq. ft. not counting the roof area. He plans to remove the small red building when the new one is finished. The proposed building is 750 sq. ft. and this would be 1/60<sup>th</sup> of the lot size. He pointed out seven shops visible from his yard. He would use his building for storage and woodworking. He stated he would not use it commercially.

### **Comments and Questions:**

Mr. White asked if he informed his neighbors about the application. Mr. Matthews replied there were some of them present in support and a couple that were opposed to the application. Mr. White asked why it was necessary to have the structure separate from the residence. Mr. Matthews replied that he planned to add onto the house.

### **Interested Parties:**

**Clyde Box**, 6560 East 25<sup>th</sup> Place, stated he has lived there for forty years. He pointed out that the houses are far from the streets, and there are many trees. He added there is no on-street parking. He was in support of the application.

**Marie Norris**, 6525 East 25<sup>th</sup> Place, stated she had no objection.

**Pat Meadows**, 6540 East 24<sup>th</sup> Street, stated strong objection. She added she has lived there for twenty-three years. She felt the accessory building would detract from the rural atmosphere and be very visible. She thought 750 sq. ft. was ample square footage for an accessory building.

**Sandra Eaton**, 6550 East 24<sup>th</sup> Street, stated she lives behind the subject property. She objected to the variance of size. She commented on several relevant BOA cases in the staff report. She asked the Board to be consistent in their deliberation.

**Joyce Chillingworth**, 6547 East 25<sup>th</sup> Place, stated she is in support of the applicant obtaining relief for a 750 sq. ft. building and keeping the loafing shed.

### **Applicant's Rebuttal:**

Mr. Matthews responded that he would like to keep the loafing shed for the grandchildren to use as a playhouse.

### **Board Action:**

On **Motion** of **White**, 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 square footage for accessory buildings in an



RS-1 district from 750 sq. ft. to 986.25 sq. ft. (Section 402.B.1.d), with the conditions: the existing shed in the northwest corner of the property would be removed after the new 750 sq. ft. structure is built; the existing structure to the south of the proposed structure will stay in place; no commercial activities, per plan on page 7.6 of the agenda packet, finding the hardship to be the unusual size of the lot, being 3.34 times the minimum permitted lot size for an RS-1 lot; and 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:

LOT-12-BLK-4, JOHANSEN ACRES AMD, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20544**

**Action Requested:**

Special Exception to permit open air activities and activities which utilize tents in the CBD district (Section 701) to permit a music and arts festival, located: At and near the intersection of South Detroit Avenue and East 2<sup>nd</sup> Street.

Mr. Cuthbertson informed the Board that the City Council and the Mayor approved the special events application for this event. There were security plans both public and private. There is an incident report from last year's event at 18<sup>th</sup> and Boston. A code change was initiated, which will be reviewed by the planning commission in August. It would allow special events such as the proposed event in the CBD district by right.

**Presentation:**

**Tom Green**, 1435 East 50<sup>th</sup> Street, stated they have obtained an agreement with Central Parking and the Performing Arts Center for staging on private property for four days. Those days are July 26<sup>th</sup> through July 28<sup>th</sup>. They also obtained permission for another stage on Arnie's parking lot at 3<sup>rd</sup> and Elgin. He worked with the Fire Department regarding emergency exits, lighting and fire extinguishers. He planned for an Artist's Registration to be set up near Detroit between 1<sup>st</sup> and 2<sup>nd</sup> in an alleyway. He commented there will be forty-four security officers and numerous police and others. He provided a large exhibit of all the plans and preparations for this event (Exhibit F-1).

**Interested Parties:**

**Jim Norton**, President of the Downtown Tulsa Unlimited, 321 South Boston, Suite 101, stated DTU is in support of this application.

**Michael Saeger**, 320 East 1<sup>st</sup> Street, stated he is the owner of Blue Dome, LLC. He added they have worked with Mr. Green on this project and are in support. He informed the Board that he has 1,300+ ft. of street front that is affected by this event. This involves nine buildings, three parking lots, two are the special event locations. He was open to approval for a multi-year term for this event.

**Suzanne Stewart**, 132 East 26<sup>th</sup> Place, expressed strong support.

**Josh Robbie**, 919 South Winston, stated his support for this application to promote young artists.

**Mary Beth Babcock**, 1119 South Detroit, owner of Dwelling Spaces, was in support, stating it is good for business.

**Nate Lopez**, 2217 East 59<sup>th</sup> Street, Commissioner on Tulsa Hispanics Commission, stated it would be good for the community.

**Sergeant Skipper Bain**, 5963 East 13<sup>th</sup> Street, Tulsa Police Special Events Coordinator, was in support. He stated that everything is in order for public safety, trash collection and communications with the surrounding businesses.

#### **Comments and Questions:**

The general comments from Board members were in support of this well-organized plan for the event. Mr. White suggested that the conditions in the plans made for D-Fest could be included in the motion to set a precedent for future events to follow, for thorough preparation in advance of those events. Sergeant Bain informed the Board there will be a workshop on July 27<sup>th</sup> and 28<sup>th</sup> to revise the special event applications to provide more detail regarding security, trash, health, tent permits, alcohol permits and other issues.

#### **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 Special Exception to permit open air activities and activities which utilize tents in the CBD district (Section 701) to permit a music and arts festival for a period of three years from this date, July 10, 2007; with the conditions that prior to the event that all considerations for security, public safety in general, health, and anything else relevant to the safe operation of the proposed event be dealt with the appropriate agencies and approval of those agencies, 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:

S1/2 LT 5 BLK 86, ALL BLK 107, E90 LTS 1 & 2 & S25 W50 LT 2 BLK 108, LT 7 S25 LT 8 BLK 108, N75 LT 8 BLK 108, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

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

Date approved: 8-16-07

Clyde Stel  
Chair

