

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 973
Tuesday, February 12, 2008, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

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

**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, February 7, 2008, at 2:51 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 1:08 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 Minutes of January 8, 2008 (No. 971).

Mr. Henke stated they would continue the minutes of January 22, 2008 to the next meeting on February 26, 2008.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20621

Action Requested:

Special Exception to permit a heliport in the CBD district (Section 701), located: 401 North Boston Avenue.

Presentation:

Steven Schuller, stated that OSU-Tulsa asked for a continuance to obtain consultation regarding any potential adverse effects of this project on their new laboratory three blocks away.

Interested Parties:

There were no interested parties who objected to a continuance.

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** a Special Exception to permit a heliport in the CBD district (Section 701), on the following described property:

Lot 2, AND the following described portion of Lot 3, to-wit: Beginning at a point in the East boundary of Lot 3 that is 29.33 feet Southerly of the Northeast corner of Lot 3, thence Southerly along the East boundary of Lot 3 a distance of 16.37 feet to the Southeast corner of Lot 3; thence Westerly along the South boundary of Lot 3 a distance of 140 feet to the Southwest corner of Lot 3; thence Northerly along the West boundary of Lot 3 a distance of 52.9 feet to a point; thence Easterly a distance of 144.74 feet to the Point of Beginning; All in Block 6, ORIGINAL TOWN, now City of Tulsa, Tulsa County, State of Oklahoma, according to the Official Plat thereof.

Ms. Stead asked Mr. Schuller to bring more detail regarding paving to the Board. Mr. Cuthbertson interjected it would be helpful for the applicant to supply the information to staff. Mr. Henke added they need to provide the information before the day of the meeting.

Case No. 20635

Action Requested:

Variance of the parking requirement to permit office uses in existing structures in the CS district (Section 1211.D), located: Northwest and Southwest corners of East 7th Street and South Lewis Avenue.

Presentation:

Mr. Cuthbertson informed the Board of the letter received from City Councilor Maria Barnes, requesting the continuance to February 26, 2008.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20635 to the meeting on February 26, 2008, on the following described property:

LOT 30 & 29 BLK 5, LOT 1 & 2 BLK 6, HILLCREST ADDN, City of Tulsa, Tulsa County, State of Oklahoma

UNFINISHED BUSINESS

Case No. 20604

Action Requested:

Special Exception to permit a Transitional Living Center, Homeless Center, Emergency and Protective Shelter and a Residential Treatment Center (Use Unit 2) in a CBD district (Section 701); and a Special Exception to permit such uses within a 1/2 mile of similar uses (Section 1202.C.7), located: 506 North Cheyenne Avenue West, 505 North Denver Avenue West.

Presentation:

Kevin Coutant, 320 South Boston, Suite 500, Tulsa, Oklahoma, submitted a collection of exhibits previously given to the BOA (Exhibit A-1) and a compilation of letters of support (Exhibit A-2). He stated that John 3:16 has two abutting properties in this application. The easterly portion has been used for the homeless shelter and the residential treatment center. The property to the west has a small strip center. They asked to strike the transitional living center and emergency shelter uses from this application. This limits the request to the homeless shelter and residential treatment center. He stated that at the core of this case is a land use issue. He reviewed the area and uses in light of the Comprehensive Plan for District 1 and the Brady Village Plan. He pointed out there were no planned public improvements that relate to this property except for a bike trail.

Steve Whitaker, Sr. Pastor of John 3:16, stated that for several years they have had to turn away people seeking help or treatments. The facility is at capacity most of the time. The John 3:16 Mission was founded in 1952; and moved from a 60,000+ sq. ft. building also located in the Brady District, to their current 18,000 sq. ft. facility in 1986. They have an additional space for a family/youth center with 3,000 sq. ft. on North Cincinnati. They help families at risk but they do not provide treatment beds or shelter at that site. He briefly described the shelter and treatment care at the subject property. They prepare meals for other entities also. He mentioned the need for those who are homeless by situation and also the chronic homeless. He added the YMCA would be closing and there are women who also need a safe place for recovery.

Comments and Questions:

Mr. Whitaker replied to questions from the Board regarding the number of meals they serve, residential programs, day program for women, security by staff, 24/7 surveillance system, and loitering on the premises.

Mr. Coutant stated the applicants met with City Councilors, Susan Neal, and Donna Harvey of the Mayor's office, and the groups they brought together to display the application. There were meetings with the Brady Village Owners' Association twice. There was an open house at the mission for the surrounding residential neighborhoods and other neighbors attended. They responded to phone calls and made every effort to respond to the public. He reviewed the location as ideal, in the far northwest corner of downtown, backed up to the IDL, surrounded by the jail and industrial uses. It has not been identified as a prime redevelopment location. Mr. Coutant responded to Mr. White regarding alternate locations for the social services. He referenced two reports: the Continuum of Care; and Building Tulsa Building Lives, regarding housing.

Interested Parties:

Steve Schuller, 100 West 5th Street, stated he represented the Oliphant, Mayo, and Sharp families. They have and plan to develop more arts, entertainment, residential, and commercial facilities in the surrounding area. He stated this special exception is not in harmony with the spirit and intent of the zoning code. The presence of people from the social service facilities that are wandering the streets, stifle the development of the area and inhibit the ability of owners of downtown property to lease space or to attract buyers, lenders or developers to this area. He stated the zoning code addresses the clustering of these type of facilities and it is not favored for the negative impact on surrounding properties. He indicated it would cause a negative influence on the tax base. The neighbors complain of pan handlers and safety issues.

Victor Wandress, 1515 South Utica, Suite 250, stated he represented George Sharp, who owns property at 422 North Boston, 114 North Boston, and 124 North Boston. He submitted a map to the Board showing the distribution of social services (Exhibit A-3). He stated 211 Tulsa is a new local social services hot line number. It identifies homeless shelter facilities, day centers, and the jail.

County Commissioner Fred Perry, 500 South Denver, stated he was speaking as a private citizen. He mentioned that the County owns a family shelter. He understood that the expansion of the John 3:16 Mission would help the downtown area. He stated that the facilities to attract the homeless have already been built. He indicated they are such things as the highways and the inner dispersal loop. He added that the presence of the homeless in downtown areas is common across the country. He suggested we find ways to meet the needs and reduce the number of homeless on the streets. He stated that John 3:16 has a good record of helping people get back into a useful life. He expressed support of the application.

Mr. Henke out at approximately 2:15 pm.

Jack Zanerhaft, 2642 East 21st Street, # 150, Tulsa, Oklahoma, 74114, represented David Wilson, owner of several properties in proximity to the subject property. His client is not against the mission. He does not consider the

expansion at this location appropriate at this time. He suggested finding where the homeless are originating from and reach them at those points. He mentioned the revitalization of the downtown area. Mr. Zanerhaft stated this is not an expansion of a residential treatment center but the beginning of one.

Mr. Henke returned at 2:19 p.m.

Mr. Zanerhaft responded to Mr. White that his clients are commercial clients.

Larry Toering, 4009 West El Paso, Broken Arrow, Oklahoma, 74012, expressed support of the application.

Mr. White out at 2:22 p.m.

Celina Burkhart, 752 North Denver Avenue, submitted information to the Board (Exhibit A-6). She stated she moved to the nearby Brady Heights neighborhood for the diversity. She listed some similar social service facilities in the neighborhood, including Catholic Charities MaDonna House, Hospice House and H.O.W. Foundation Halfway House.

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

Her neighborhood association expects these facilities to keep their properties clean. She did not think the John 3:16 Mission cleaned up after the people she thought were their clients under the bridge and around their building. Ms. Burkhart complained of the vagrancy of the homeless in the area in general.

Ms. Stead asked how many panhandlers she has seen at her door in the last six months, to which she replied 15 to 20 or more. Ms. Burkhart did not know from which facility they might have come.

Laurie Keeley, 1802 West Cameron Street, Tulsa, Oklahoma 74127, President, Owen Park Neighborhood Association, stated they are one of the first neighborhoods and the park is the first in Tulsa. She indicated a saturation of social services in this area (Exhibit A-7), which she considered a burden to the neighborhood.

Daniel Ketchum, 2907 East 32nd, Tulsa, Oklahoma 74105, stated he works in an office at 15 West 6th Street. He has served on the John 3:16 Board. He expressed support of the homeless people, the mission, and this application.

Jim Norton, 321 South Boston, Suite 101, President, Downtown Tulsa Unlimited, stated they also serve on the Mayor's Task Force to end homelessness. He added he Co-Chair's the Anti-Panhandling Task Force with members of the Community Service Council. He stated the mission does a good job, but the area is over-saturated with social services. Mr. Norton informed the Board the application was

not in compliance with the Mayor's Task Force Plan (Exhibit A-5). He quoted from the plan regarding scattering the services throughout the community.

Ms. Stead asked if the plan was in effect to which he replied that they are working on it with the Mental Health Association and others.

He also read from a report named Building Tulsa, Building Lives, regarding housing first strategy (Exhibit A-4). He indicated there is no need for additional shelter beds, and there are enough shelter beds on an emergency basis. He questioned why they want an additional 200 beds if they are turning away only about twenty people per night. He added that this application was not in compliance with the Urban Renewal Plan for downtown, which indicated social services should be concentrated west of Denver and north of the railroad.

Terry Stallcop, 4127 East 62nd Street, Tulsa, Oklahoma, 74136, stated she is on the Board of Directors for John 3:16 Mission. She added that she came as a citizen of Tulsa. She informed the Board that the primary purpose is not to shelter but to help the homeless to change their life situations. The plan is to help women and men with intense therapy for rehabilitation and restoration of their lives.

Charles Duke, 25866 South Clayton, Claremore, Oklahoma 74017, stated he has been a Board Director for John 3:16 for eighteen years. He indicated this type of program is an answer to helping people get off the streets and establish their lives.

Jim Furman, 5800 West Orlando Circle, Broken Arrow, Oklahoma, 74011, is a Board member for John 3:16 Mission. He informed the Board that they are limited on the number of people they can serve in the existing facility.

Rev. B. D. Bullock, 784 East Queen Street, President, Dunbar Neighborhood Association, reminded the Board this is not near residential homes. She expressed support of the mission and the application.

William Wilkins, 615 North Cheyenne Avenue, Tulsa, Oklahoma, 74106, has built a few homes in this area, including his own. He had the same complaints of panhandling and vagrancy in the area.

Mr. Stephens asked if he thought his home has appreciated in value. Mr. Wilkins replied he thought it has decreased in value. He felt this project would have a negative impact.

Jim Brackett, 1009 South Main, Tulsa, Oklahoma, 74119, stated he owns property in the area. He mentioned similar concerns to those of the previous speakers.

John Bolton, 100 Civic Center, Tulsa, Oklahoma 74103, General Manager, BOK Center, stated his home address is 414 West 14th Place, Tulsa, Oklahoma. He

asked the Board to consider the economic ramifications of adding more services downtown.

Chip Atkins, 1638 East 17th Place, Tulsa, Oklahoma, stated the presence of the homeless people is not unique to the downtown area. He stated this is a zoning issue. He was in support and encouraged the Board to approve the application.

Diedra Simmons, 1719 West Easton Court, Tulsa, Oklahoma 74126, stated she was a resident and homeowner for seven years. She expressed some of the same concerns stated previously.

Letters of opposition are found in Exhibit A-8 and letters of support are in Exhibit A-9.

Applicant's Rebuttal:

Mr. Coutant responded that the Mission is seeking people who want help through their programs, not just seeking to fill a shelter. He read from the Mayor's strategic plan, included that, "the faith-based organizations will commit to provide spiritual guidance to those members of the chronic and general homeless population that will benefit from a faith environment, and be open to referral from other agencies; and provide emergency shelter, transitional housing, and services designed to prevent and end homelessness." The proposal of this application is not fatally at odds with this strategic plan. Mr. Coutant stated this is a complex problem that needs a variety of solutions. He resisted the notion that somehow this project is contrary to an established policy of this community. He noted the Mayor was not present objecting to this application or supporting it either.

Ms. Stead asked Mr. Whitaker if they have studied what would happen if they were to move to another location. Mr. Whitaker replied that it was better to be near other facilities that also provide care for their clients than to bus them back and forth to another site. Mr. Whitaker replied to Mr. White's question with information regarding the identification processing for the homeless who go to the Mission. He also explained the lottery system for taking in new people and referrals to the Salvation Army.

Board Action:

On Motion of **Stephens**, to **APPROVE** a Special Exception to permit a Homeless Center, and a Residential Treatment Center (Use Unit 2) in a CBD district (Section 701); and a Special Exception to permit such uses within a 1/2 mile of similar uses (Section 1202.C.7), with conditions for the sidewalks on the south and east side be maintained, and all hard surfaces are asphalt; in granting the special exception, the Board must find 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,

Mr. Cuthbertson asked if the finding could be stated more specifically that the motion finds that this application is in harmony and not injurious.

Mr. Stephens amended the finding to his motion of approval, stating that this special exception is harmonious with the spirit and intent of the code; that there is a collection of social services in the area and it would be a disservice if they were not; and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, the Board voted 3-2-0 (Stephens, Henke, Tidwell "aye"; White, Stead "nay"; no "abstentions"; no "absences"), on the following described property:

The South Ten (10) feet of Lot 3, all of Lot 4 and all of Lot 5, Block 3, Original Town, now City of Tulsa, Tulsa County, State of Oklahoma, according to the official plat thereof, and the dedicated alley lying between the South ten (10) feet of Lot 3 and all of Lot 4 on the East and the South Ten (10) feet of Lot 6 and all of Lot 5 on the West, all in Block 3, Original Town, now City of Tulsa, Tulsa County, State of Oklahoma, according to the official plat thereof.

* * * * *

Ms. Stead left the meeting at 3:55 p.m.

NEW APPLICATIONS

Case No. 20632

Action Requested:

Variance of the setback requirement for a detached accessory building from the centerline of an abutting street from 45 ft. to 35 ft. 3 1/2 in. (Section 210.B.5.b), located: 2601 East 13th Place.

Presentation:

David Falling, 2601 East 13th Place, proposed to replace the 1937 garage that was termite and water damaged. The new structure would be a little longer and wider. A site plan was provided (Exhibit B-1).

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stephens, Henke, Tidwell "aye"; no "nays"; no "abstentions"; Stead "absent") to **APPROVE** a Variance of the setback requirement for a detached accessory building from the centerline of an abutting street from 45 ft. to 35 ft. 3 1/2 in. (Section 210.B.5.b), finding the garage will not extend out past the existing dwelling and would replace a garage that was destroyed by time, 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, per plan, as shown on agenda packet page 4.6, on the following described property:

LT-13-BLK-1, HURST'S RESUB B5 FAIR ACRES ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20633

Action Requested:

Variance of the required rear yard from 25 ft. to 4.2 ft. (Section 403) and a Variance of the setback requirement from S. Lewis Av. from 70 ft. to 60 ft. (Section 403) to permit an expansion between an existing dwelling and existing detached garage, located: 2404 East 22nd Place South.

Presentation:

Brian Curthoys, 601 South Boulder, Suite 400, Tulsa, Oklahoma 74119, represented Debbie Grubel.

Mr. Stephens out at approximately 4:00 p.m.

He proposed to construct an addition to the house and a driveway to allow a turn around. He stated the hardship is the steep elevation change from Lewis up to the house. A site plan was provided (Exhibit C-1).

Interested Parties:

Charles Toppins, 2430 East 22nd Place, stated he did not want to protest this application. He was concerned about the existing traffic problems in this area.

Board Action:

On **Motion of Stephens**, the Board voted 4-0-0 (White, Stephens, Henke, Tidwell "aye"; no "nays"; no "abstentions"; Stead "absent") to **APPROVE** the Variance of the required rear yard from 25 ft. to 4.2 ft. (Section 403) and a Variance of the setback requirement from S. Lewis Av. from 70 ft. to 60 ft. (Section 403) to permit an expansion between an existing dwelling and existing detached garage, per plan, as shown on agenda packet pages 5.7 and 5.8, finding in granting the variance 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 2, WELLS HEATH ADDN RESUB TR 14-17 HARTER'S SECOND SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20636

Action Requested:

Variance of the minimum average lot width in the AG district to permit a lot split (Section 303), located: 836 West 84th Street.

Mr. White abstained from Case No. 20636.

Presentation:

Robin Rosencutter, 401 East 119th, Jenks, Oklahoma, 74037, reminded the Board that over six lot split variances have been approved in the last five to eight years.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stephens**, the Board voted 3-0-1 (Stephens, Henke, Tidwell "aye"; no "nays"; White "abstained"; Stead "absent") to **APPROVE** a Variance of the minimum average lot width in the AG district to permit a lot split (Section 303), per plan, as shown on agenda packet page 7.6, and in granting the variance 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 NEC SE NE TH W569.45 SW277.42 W541.37 S272.20NE142.01 S25.67
NE34.96 E394.41 NE213.54 W48.26 NE266 E433.83 N60 TO POB SEC 14 18
12, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20634

Action Requested:

Request for refund.

Presentation:

Mr. Cuthbertson stated the applicant withdrew the application. Staff recommended a refund of \$249.00.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Stephens, Henke, Tidwell "aye"; no "nays"; no "abstentions"; Stead "absent") to **APPROVE** a Refund of \$249.00.

Case No. 20614

Action Requested:

Reconsideration of a condition of a Variance of the minimum 1,200 ft. separation between outdoor advertising signs to 1,030 ft. (Section 1221.F.2), subject to the conditions that it not be an LED sign; the property as advertised be combined with another property to the south belonging to the same owner, for the purpose of calculating signage, located: East of the Southeast corner of 165th East Avenue and I-44.

Presentation:

Mr. Cuthbertson explained that he made a suggestion for a condition to the approval of the variance when the Board heard this case. The condition was that the subject property be combined with another property to the south belonging to the same owner, for the purpose of calculating signage. He asked that the Board strike that condition.

Comments and Questions:

Mr. Ackermann asked if staff wanted a review only to the extent of that condition. Mr. Cuthbertson replied he recommended a review only of the condition.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Henke Stephens, Tidwell "aye"; no "nays"; no "abstentions"; Stead "absent") to **Strike** the condition for "the property as advertised be combined with another property to the south belonging to the same owner, for the purpose of calculating signage", on the following described property:

PRT LT 1 BEG NWC LT 1 TH CRV RT 101.91 S94 W100 N75 POB BLK 1, AUD ADDN, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 4:20 p.m.

Date approved: 3/11/08

Frank X. [Signature]
Chair