

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 982
Tuesday, June 24, 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 Friday, June 20, 2008, at 9:36 a.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

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

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

MINUTES

On **MOTION** of **Tidwell**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of June 10, 2008 (No. 981).

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20727

Action Requested:

Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9 & 1221.G.14), located: 405 North Cincinnati Avenue East.

Presentation:

The applicant, **Lamar Outdoor Advertising**, withdrew this application.

Board Action:

No action necessary.

UNFINISHED BUSINESS

Case No. 20690

Action Requested:

Variance of the 5 ft. landscape requirement abutting a public Right-of-Way (Section 1002.A.2) and a Variance of the building setback from a freeway service road (Section 703), located: Southeast corner of South 33rd West Avenue, and I-44.

Presentation:

Jim Beach, 200 East Brady Street, with Wallace Engineering, stated that at the last hearing there was some additional property that the applicant did not own, included in the legal description. They clarified the legal description, revised the map, removed some requested variances and re-worked the site plan. He stated that because of the extreme width of the right-of-way they believe the intent of the code is met in that it will never be built upon. The hardship is the nature and configuration of the site and the topography forces them to be located in the westerly part of the property to stay above the drainage way on the east. The south property line forces them to the north.

Comments and Questions:

Ms. Stead asked if he was saying that the distance of the building setback from the north property line is 34 feet. He replied that it is 33.71 ft. She asked for the building floor area. Mr. Beach estimated it is 10,400 sq. ft. He stated they planned for parking to exceed the requirement by two parking spaces. She noted the plans submitted are conceptual though there is not much room to change it. He responded to other questions, stated the applicant has worked out the landscaping in a way that satisfied a neighbor that was opposed at the previous hearing. He agreed there would be no problem with re-constructing or maintaining the sidewalks on 33rd West Avenue; and that all parking and driving surfaces will be paved with asphalt or concrete. He also assured the Board they have an access agreement with Oklahoma Department of Transportation, and he was not sure if it has been filed yet.

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 5 ft. landscape requirement abutting a public Right-of-Way (Section 1002.A.2) and a Variance of the building setback from a freeway service road (Section 703), finding the hardship is the configuration and topography of the land involved, per conceptual plan as shown on page 2.6; with a condition for the applicant to re-construct or maintain sidewalks on 33rd West Avenue; finding in granting the variances there are 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:

A TRACT OF LAND IN THE NORTHWEST QUARTER (NW/4) OF THE NORTHWEST QUARTER (NW/4) SECTION THIRTY-FOUR (34), TOWNSHIP NINETEEN (19) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 34, THENCE SOUTH 00° 00' 21" EAST FOR A DISTANCE OF 661.50 FEET; THENCE SOUTH 89° 54' 30" EAST FOR A DISTANCE OF 50.00 FEET TO A 3/8" IRON PIN, SAID IRON PIN BEING THE POINT OF BEGINNING; THENCE SOUTH 89° 54' 30" EAST FOR A DISTANCE OF 303.05 FEET; THENCE SOUTH 00° 00' 20" WEST FOR A DISTANCE OF 330.75 FEET; THENCE NORTH 89° 52' 28" WEST FOR A DISTANCE OF 152.78 FEET; THENCE NORTH 00° 00' 20" EAST FOR A DISTANCE OF 152.38 FEET; THENCE NORTH 89° 54' 30" WEST FOR A DISTANCE OF 150.27 FEET; THENCE NORTH 00° 00' 20" EAST A DISTANCE OF 178.28 FEET TO THE POINT OF BEGINNING.

Case No. 20699

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), located: 11324 East Apache Street North.

Presentation:

Mr. Cuthbertson reminded the Board that the applicant previously came before the Board without a certificate of survey (Exhibit A-1). The Board requested he supply one at this meeting, though he was not required to attend this hearing.

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 **ACCEPT** a Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

BEG NWC NW TH E1300 TO PT ON WL EAGLE POINT ADDN I TH S1407.80 W400 S671.89 TO PT ON NL RR RW SW905.68 TO PT ON WL NW N2162.87 POB LESS W50 THEREOF & LESS BEG 50E NWC NW TH E1250 S50 W1214.02 SW39.65 S309.98 W8 N388 POB SEC29 20 14 52.770ACS, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20700

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), located: 7 North Harvard Avenue East.

Presentation:

Mr. Cuthbertson stated this is the same request for verification of spacing at the address given. The certificate of survey was submitted.

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 **ACCEPT** a Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

LT 7 LESS W5 HWY & PLUS N7 E133 LT 8 BLK 4, WALNUT PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

Case No. 20684

Action Requested:

Variance of the side yard setback to permit an existing carport (Section 210.B.10); and a Variance of the side and rear setback for an existing accessory building in the required rear yard (Section 210.B.5.b), located: 27 South 166th Avenue East.

Presentation:

Gary West, 16403 East 1st Street, Tulsa, Oklahoma, stated the carport and building were in place when his family purchased it. They enlarged the building about 20 to 25 years ago. They recently received a notice from Neighborhood Inspections of a Code violation. He applied for this relief and then talked with the permit office and they did not think this was an issue. He provided photographs (Exhibit B-1) to the Board.

Comments and Questions:

Ms. Stead asked when this addition was annexed into the City and he did not know.

Interested Parties:

Dennis Troyer, City Councilor, District 6, 12811 East 13th Place, Tulsa, Oklahoma, did not understand why he had to remove his accessory building prior to this, but he did in response to notice of violation. He spoke in support of this application.

Willie Usry, 24 South 166th East Avenue, Tulsa, Oklahoma, stated he has lived directly across the street since 1969. The carport and the property were basically the same then as today.

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 side yard setback to permit an existing carport (Section 210.B.10); and a Variance of the side and rear setback for an existing accessory building in the required rear yard (Section 210.B.5.b), we find, based on testimony, the subject carport and buildings existed in 1969 prior to the current zoning code; finding these are 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:

LT 10 BLK 5, ROSE DEW ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20692

Action Requested:

Special Exception to permit Platt College (Use Unit 5) in an IL District (Section 901), located: 3801 South Sheridan Road.

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, Oklahoma, submitted two photographs of the buildings in the application (Exhibit C-1). Platt College has occupied these buildings for over six years. There have not been issues related to neighborhood parking.

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 Platt College (Use Unit 5) in an IL District (Section 901), 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:

All that part of the Southwest Quarter (SW/4) of Section Twenty-Three (23), Township Nineteen (19) North, Range Thirteen (13) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U. S. Government Survey thereof, being more particularly described as follows: Beginning at a point on line 659.64 feet South of the North line of said Southwest Quarter (SW/4) of Section Twenty-Three (23), said point being 50 feet due East of the West line of said Southwest Quarter (SW/4); Thence South 89°33'13" East a distance of 450.52 feet to a point on the Northwesternly Right of Way line of Interstate Highway 44 (Skelly By-Pass); Thence South 49°20'11" West along said Right of Way line a distance of 593.91 feet to a point, said point being 50.00 feet East of the West line of said Southwest Quarter (SW/4); Thence due North and parallel with the West line of the said Southwest Quarter (SW/4) a distance of 391.51 feet to the Point of Beginning. And All that part of the Southwest Quarter (SW/4) of Section Twenty-Three (23), Township Nineteen (19) North, Range Thirteen (13) east of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U. S. Government Survey thereof, being more particularly described as follows: Beginning at a point 459.64 feet South of the Northwest Corner of the Southwest Quarter (SW/4) of Section Twenty-Three (23) and 50.00 feet East of the West line of the Southwest Quarter (SW/4); Thence South 89°57'59" East a distance of 373.02 feet to a point on the Westerly line of the old M.K.T. Railway Right of Way (now Union Pacific Railroad); Thence South 38°01'18" East along said Westerly Right of Way line a distance of 48.01 feet to a point; Thence South 51°58'42" West along said Westerly Right of Way line a distance of 25.00 feet to a point; Thence South 38°01'18" East along said Westerly Right of Way line a distance of 190.90 feet to a point; Thence North

89°33'13" West a distance of 500.50 feet to a point 50 feet East of the West line of said Southwest Quarter (SW/4); Thence due North and parallel with the West line of said Southwest Quarter (SW/4) a distance of 200.00 feet to the Point of Beginning.

Case No. 20701

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), located: East of the Northeast corner of South Memorial Drive and the Creek Turnpike.

Presentation:

John Allred, 8988 South Sheridan, Tulsa, Oklahoma, was present with the certificate of survey for verification of spacing.

Interested Parties:

There were no interested parties who wished to speak.

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 **ACCEPT** a Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

LT 2 BLK 1, SUNCHASE II RSB PRT L1&2 B2 SUNCHASE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20702

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), located: 10903 East Broken Arrow Expressway.

Presentation:

John Allred, 8988 South Sheridan, Tulsa, Oklahoma, was present with the certificate of survey for verification of spacing.

Interested Parties:

There were no interested parties who wished to speak.

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 **ACCEPT** a Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

LT 1 BLK 2, TOWNE CENTRE II, City of Tulsa, Tulsa County, State of Oklahoma

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Kurt Ackermann, City Legal, stated for purposes of information. Due to recent amendments to Section 1221 of the Zoning Code, allowing for digital signage, we are receiving more applications for verification of spacing for outdoor advertising signs. When an existing billboard is upgraded to digital it is considered a new use under the new ordinance. Therefore, the sign has to be re-verified for the new use. After the first of the year, there will be a new spacing requirement that incorporates spacing for digital signs not just on one side of the highway but also for signs on the other side of the highway facing the same direction.

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Case No. 20703

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), located: 10131 East Admiral Place North.

Comments and Questions:

Ms. Stead noted there is an existing advertising sign approximately 30 ft. from the proposed Whistler outdoor advertising sign. She wanted to know why it was not shown or referenced in the application. Mr. Allred replied that Whistler owns the sign and it is going to be removed and a new one will replace it on the west end of the property. This application is for another new sign.

Presentation:

John Allred, 8988 South Sheridan, Tulsa, Oklahoma, was present with the certificate of survey for verification of spacing.

Interested Parties:

There were no interested parties who wished to speak.

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 **ACCEPT** a Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, with the condition that the existing Whistler sign in the immediate vicinity of the new sign, be removed prior to constructing the new sign, on the following described property:

LT1 LESS BEG 596.90 E 249.64 N & 63.49 NELY SWC SEC 31 20 14 TH NELY 77.35 E 435.51 CRV RT 933.65 E 20.78 SE 306.21 NW 155.14 NW 68.09 CRV LF 76.83 W 46 .22 CRV RT 80.98 NW 196.05 CRV LF 92.95 W 27.22 CRV RT 110.61 NW 29.54 CRV LF 269.35 SW 89.74 W 259.27 N 66.50 WLY 109.51 POB & LESS 120 W 120 BLK1, CROSSTOWN CENTER RESUB PRT VAN ESTATES NO 2 AMD, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20704

Action Requested:

Appeal the determination of the zoning official denying the permit for the addition of a structure to accommodate a business in the RS-3 district, located: 915 North 33rd West Avenue.

Presentation:

Harold Hawkins, 915 North 33rd West Avenue, Tulsa, Oklahoma, gave an opening statement. In summary he stated the buildings were constructed in the 1960's and the needs to improve the property and comply with the zoning code, suggesting it would improve the character of the property. Materials and machinery would be stored out of sight. He indicated that a restriction on his use rights should not be imposed if it does not bear a substantial relation to public health, safety, morals or general welfare. He asked for consideration of his extraordinary situation that his proposal is in keeping with spirit and intent of the Comprehensive Plan. The physical nature of the neighborhood and surrounding property has not change since this home was built and the business was established, which is over forty years. There are no new homes or housing developments in over forty years.

Comments and Questions:

Mr. Henke asked if the applicant filed the appeal with the City Clerk and Administrative Official and stated the reason for the appeal. Mr. Hawkins replied that he did. He did not have a copy of the appeal to the Board. Mr. Henke could not find that a reason for the appeal was given at the time of filing. He asked Mr. Ackermann for assistance. Mr. Ackermann replied that the notice of appeal is required to be filed within ten days of the decision of the Administrative Official and

the notice shall specify the grounds for the appeal. He stated that the notice of the appeal appears not to specify the grounds for the appeal. This means the notice does not appear to be perfected and at this time the Board would not have jurisdiction to hear the case. Mr. Cuthbertson stated this notice of appeal was filed April 9, 2008, the application officially establishing the appeal to the Board was made on May 2, 2008. There was no justification or support for the appeal in the application. Mr. Cuthbertson stated he received correspondence from the appellant around May 28, 2008 that gave justification and support for the appeal.

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 **DISMISS** the Appeal for lack of jurisdiction, on the following described property:

N 132 of the S 528 of the W 330 of the SW/4 of the SW/4 of the NE/4 Section 33, T-20-N, R-12-E, City of Tulsa, Osage County, State of Oklahoma

Mr. Alberty stated that in this situation where there was a non-conforming use that can continue as long as it is not changed. When he changed it by expanding it, the Inspector was correct in his decision, according to the code. Mr. Ackermann pointed out that the instruction for appealing the Administrative Official's decision was on the deficiency letter that the applicant received.

Case No. 20705

Action Requested:

Site plan approval for an approved industrial use in a CG district, located: 65 North Mingo Road East.

Presentation:

Gale Plummer, stated he requested approval of this application. A site plan was provided (Exhibit D-1).

Comments and Questions:

Mr. Plummer was informed that a sidewalk would be required on this site plan only; as well as, no outside storage of material, all manufacturing inside the building, and all parking and driving surfaces asphalt or concrete.

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 Site plan approval for an approved industrial use in a CG district, per site plan as

shown on page 11.6 of the agenda packet; with conditions for no outside storage of materials; all manufacturing to be done inside the buildings; all parking and driving surfaces to be asphalt or concrete; maintain existing sidewalk along South Mingo Road; and construct new sidewalk to the southern extent of the subject property; 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:

PRT LT 1 BEG NWC TH S400 NELY200 N400 SWLY200 POBBLK 1, VAN ESTATES NO 2 AMD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20706

Action Requested:

Verification of spacing for a family day care home in an RS-3 District (Section 402.B.5.g); A Variance of the maximum number of children cared for in the home from 7 to 12 (Section 402.B.5.c), located: 580 South Maplewood Avenue East.

Presentation:

Lenora Carter, 580 South Maplewood, Tulsa, Oklahoma, came to obtain approval for a day care in her home. She explained that the families who bring children have several children. One family has four and another has five children. She keeps one child overnight.

Mr. Cuthbertson interjected that the verification of spacing would allow a daycare home for up to seven children in that home.

Interested Parties:

Kris Landes, 574 South Maplewood Avenue, Tulsa, Oklahoma, 74112, submitted photographs (Exhibit E-1) and stated the applicant regularly cares for more than seven children.

Mr. Ackermann stated a family home daycare is a defined use by definition in the zoning code. To grant a variance from seven to twelve would be granting a variance from the use as it is defined by the code, which results in a use variance. The Board is not allowed to approve a use variance; therefore it is not a valid request. He added that the state allows up to twelve children in a family home daycare. The City of Tulsa has never amended the ordinance to allow more than seven children.

Applicant's Rebuttal:

Ms. Carter stated there are twelve children but only three families that would not impact traffic as it would if there were more families involved.

Mr. White asked if she had employees, to which Ms. Carter replied that she employs her sister who does not live in the home. Ms. Carter stated she lives in the home. Mr. White confirmed that the zoning code only allows employees that live in the home for a family daycare home. Ms. Carter responded that her sister is DHS approved as an assistant. She stated this is the first time she has heard that it has to be a family member living in the home.

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 **ACCEPT** the Verification of spacing for a family day care home in an RS-3 District (Section 402.B.5.g); and to **DISMISS** the Variance of the maximum number of children cared for in the home from 7 to 12 (Section 402.B.5.c), finding this Board does not have jurisdiction to approve the variance of the maximum number of children; and to recommend a refund to be granted to the applicant, on which action will be presented at the next meeting, on the following described property:

PRT LTS 1 & 2 BEG 100S NEC LT 1 TH WLY TO PT 57.8S NWC LT 1 S97.TO
PT ON WL LT 2 113.7N OF SWC LT 2ELY TO PT 72N SECR LT 2 N97 POB
BLK 37, GLENHAVEN AMD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20707

Action Requested:

Spacing Verification for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway, located: Southwest corner of South 129th East Avenue and the Broken Arrow Expressway.

Presentation:

John Allred, 8988 South Sheridan, Tulsa, Oklahoma, had provided a certificate of survey.

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 **ACCEPT** a Spacing Verification for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway, based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

LT 2 LESS BEG SECR LT 2 TH W623.90 N1049.94 SE398.40 CRV RT 70.32
SE130 CRV LF 38.64 S926.76 POB & LESS BEG NEC LT 2 TH S281.24
W10.01 N286.89 NL SE11.69 POB FOR ST BLK 4, METRO PARK, City of
Tulsa, Tulsa County, State of Oklahoma

Case No. 20708

Action Requested:

Variance of the maximum permitted height from 18 ft. to 24 ft. and from one story to two stories for a detached accessory building located in the required rear yard of a residentially zoned property; and a Variance of the maximum permitted coverage of the required rear yard of 25% by a detached accessory building (Section 210.B.5), located: 2121 East 22nd Place South.

Presentation:

Jack Arnold, 7310 South Yale, Tulsa, Oklahoma, a Registered Architect, represented Hap Fry and Sara Fry. He submitted a sketch and photograph looking south at the lot in question (Exhibits F-2 and F-3). He pointed out the detached garage on the property, on which they plan to build. He noted it is prevalent in this neighborhood to find detached buildings in the rear yard. He explained they plan for it to be a visual and noise buffer from the parking lot of Monte Casino and the trash pick up. The sketch is a profile of the house, parking lot and beyond is a three-story structure that looks down over the house.

Comments and Questions:

Ms. Stead asked about plans for living quarters or other use for second story of the accessory building. Mr. Arnold responded it would have sewer, water, and electricity. He did not object to the condition that it would not be used for rental property.

Robert Fry, 1304 East 18th Street, Tulsa, Oklahoma, stated he and his wife personally went to the neighbors for signatures on the petition. They explained to all and not one neighbor was opposed. They were unable to communicate with someone at Utica Square or at the synagogue. Site plan and elevations are listed as (Exhibits F-14.6 and F-14.17).

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 height from 18 ft. to 24 ft. and from one story to two stories for a detached accessory building located in the required rear yard of a residentially zoned property; and a Variance of the maximum permitted coverage of the required rear yard of 25% by a detached accessory building (Section 210.B.5); finding the location of the property is near institutional property presenting a big hardship; finding these are 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; with the provision that the completed second story will never be used for commercial rental property, per the site plan and elevation as shown on pages 14.6 and 14.17 in the agenda packet, on the following described property:

ALL OF LT 16 & W1/2 OF LT 17 BLK 4, BRENTWOOD HGTS, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20709

Action Requested:

Special Exception to permit the restoration of a legal non-conforming structure (non-conforming as to front, side, and rear yards, and livability space) in the RS-3 district (Section 1405.B), located: 1807 East 16th Street South.

Presentation:

Dave Dankard, 2425 South Dogwood, Broken Arrow, Oklahoma, stated he has a Certificate of Appropriateness from the Historical Society (Exhibit G-2). This house was burned down during the ice storm, which they plan to rebuild where the structure was located (Exhibit G-1).

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 the restoration of a legal non-conforming structure (non-conforming as to front, side, and rear yards, and livability space) in the RS-3 district (Section 1405.B), per plan submitted as shown on page 15.9 in the agenda packet; 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; noting the applicant has provided an approved Certificate of Appropriateness from the TPC,

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 the restoration of a legal non-conforming structure (non-conforming as to front, side, and rear yards, and livability space) in the RS-3 district (Section 1405.B), per plans submitted as shown on pages 15.9 and 15.11 in the agenda packet; 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; noting the applicant has provided an approved Certificate of Appropriateness from the TPC, on the following described property:

E45 LT 17 LESS S5 THEREOF FOR SIDEWALK BLK 1, BELL-MCNEAL ADDN
RESUB L14-31 TERRACE PARK ADDN, City of Tulsa, Tulsa County, State of
Oklahoma

Case No. 20710

Action Requested:

Variance of the maximum floor area permitted for a detached accessory building in the RS-3 district from 500 sq. ft. to 696 sq. ft. (Section 402.B.1.d), located: 148 South 36th Place West.

Presentation:

Wayne Luellen, 148 South 36th West Place, stated he has a garage in the back of the house. The site plan is Exhibit H-1.

Comments and Questions:

Ms. Stead asked when the house was built. He replied that it was built before his family bought it in 1941.

Mr. Henke out at 2:27 p.m.

She informed him that he would have to pave a driveway to the new garage, with concrete or asphalt.

Mr. Henke returned at 2:28 p.m.

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 floor area permitted for a detached accessory buildings in the RS-3 district from 500 sq. ft. to 696 sq. ft. (Section 402.B.1.d), finding the location of the existing house on the lot makes it difficult, if not impossible, to construct an attached garage; and that in granting the variance, the Board finds that these are 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 site plan as shown on page 16.6 as shown in the agenda packet; and noting that the extension of the current gravel driveway to the two-car garage will be hard surface, either asphalt or concrete, on the following described property:

LT 16 BLK A, JOE SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20711

Action Requested:

Variance of the minimum required frontage on an arterial street in an IL district from 150 ft. to 50 ft. (Section 903) and a Variance of the required building setback from the centerline of S. Delaware Av. from 100 ft. to 90 ft. (Section 903), located: Northwest corner of 91st Street and South Delaware Avenue.

Mr. Henke recused himself from Case No. 20711.

Presentation:

Ted Sack, 111 South Elgin, Tulsa, Oklahoma, stated this is an odd-shaped tract. The property was re-platted. He added that Arvest Bank has Tract B and would like to build a bank facility. Mr. Sack pointed out the narrowness of the property, access onto the Home Depot lot, and good stacking room for the drive-through. He stated they are working on the site plan to work out all the details. The plan submitted is conceptual (Exhibit I-1). It illustrates the variances they requested.

Comments and Questions:

Mr. White asked if he has talked with the neighborhood area. Mr. Sack replied that he received an email from them. He stated the sign is not really going to move, but they could contact Home Depot about moving their sign. Mr. Stephens asked about additional curb cuts, to which he replied that they are asking for one additional curb cut, more for circulation for a drive-through bank. It will probably be for a right-in and a right-out, with no left turn. Mr. Stephens asked about the screening fence height, with concern about vehicle head-lights. Mr. Sack replied that the lot is low and the screening fence is six feet in height. He did not think that would be an issue. Ms. Stead asked about sidewalks on 91st and Delaware. He thought there were sidewalks along both streets and agreed they would maintain them.

Interested Parties:

Ron Dillinger, 2823 East 89th Street, stated he is President of the Cedar Crest Neighborhood Association. Home Depot agreed to build a berm with shrubbery and trees to block the view. Mr. Cuthbertson informed the Board the berm is not on the subject property. He expressed concern for the noise and heavy traffic.

Beth Fengler, 2888 East 89th Street, Tulsa, Oklahoma, 74137, was concerned that this case would set a precedent of business encroaching on the neighborhood. She also was concerned about a large sign too close to the neighborhood. She was informed by the Board that no relief has been requested for a sign.

Applicant's Rebuttal:

Mr. Sack responded that the applicant would like to place their sign on the south side of their property and hope that Home Depot will move their existing sign. Home Depot obtained a waiver to move some of the parking spaces away from the neighborhood. The right-of-way for Delaware is a secondary arterial street is already dedicated for widening, according to the Major Street and Highway Plan.

Board Action:

On **Motion of Stephens**, the Board voted 4-0-1 (White, Stephens, Stead, Tidwell "aye"; no "nays"; Henke "abstained"; no "absences") to **APPROVE** a Variance of the minimum required frontage on an arterial street in an IL district from 150 ft. to 50 ft. (Section 903) and a Variance of the required building setback from the centerline of S. Delaware Av. from 100 ft. to 90 ft. (Section 903), per conceptual plan submitted today, finding the peculiar shape and lay of the land are 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:

LT 1 BLK 1, HOME DEPOT AT 91 DELAWARE CENTER RSB PT DELAWARE SQUARE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20712

Action Requested:

Variance of the building setback from an adjoining R district from 10 ft. to 8.7 ft. (Section 603), located: 5121 South Wheeling Avenue East.

Presentation:

Roy Johnsen, 201 West 5th Street, Suite 501, Tulsa, Oklahoma, represented the owner of the building constructed about five years ago. There were building permits issued, a certificate of occupancy issued and an inspection of the foundation. At some point there an error was made. At the southwest corner of this two-story office building it is 9.1 ft. from the property line and the building setback is 10 ft. On the southeast corner it is 8.7 ft. from the property line, which is 1.3 ft. farther south than it should be. He submitted dimensions and photographs (Exhibits J-1 and J-2) showing a view from south of the subject property. This is multi-family parking. There is nice landscaping for this building and a screening fence on top of a retaining wall and evergreen plantings. He reviewed an aerial to point out some severe drainage problems on the west.

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 building setback from an adjoining R district from 10 ft. to 8.7 ft. (Section 603), finding the OM-zoned property has been built since approximately five years ago; finding at that time there were apparent construction errors and possible surveying errors as to the distance between property lines; finding these 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 plat as shown on page 18.6 of the agenda packet, showing the dimensions as they now exist, on the following described property:

LT 4 BLK 2, PERRY'S SUB W435 B2 PERRY'S SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20713

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), located: 634 West 12th Street South.

Presentation:

Lorenda Alazondo, 7777 East 38th Street, Tulsa, Oklahoma, was present for Lamar Outdoor Advertising.

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 **ACCEPT** a Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

PRT LTS 1 THRU 3 BEG 9S NEC LT 1 TH S120 W96 S11 W97.5 N109 ELY200.15 POB BLK 15, LINDSEY THIRD ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20725

Action Requested:

Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9 & 1221.G.14), located: 10322 East 71st Street South.

Presentation:

Lorenda Alazondo, 7777 East 38th Street, Tulsa, Oklahoma, was present for Lamar Outdoor Advertising.

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 **ACCEPT** a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9 & 1221.G.14), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

LT 4 BLK 1, VALLEY CROSSING, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20726

Action Requested:

Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9 & 1221.G.14), located: Southwest corner of East 51st Street and 129th East Avenue.

Presentation:

Lorenda Alazondo, 7777 East 38th Street, Tulsa, Oklahoma, was present for Lamar Outdoor Advertising.

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 **ACCEPT** a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9 & 1221.G.14), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

BEG 65S & 50W NEC NE TH S361.34 NW732.87 TO PT 50S NL SEC E611.48 TO PT 65W EL SEC SE21.25 POB LESSBEG 65S & 50W NEC TH S14.16 NW29.98 W328.84 N8 E335 SE21.25 POB SEC 32 19 14 2.635ACS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20727

Action Requested:

Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9 & 1221.G.14), located: 405 North Cincinnati Avenue East.

Presentation:

Lorenda Alazondo, 7777 East 38th Street, Tulsa, Oklahoma, was present for Lamar Outdoor Advertising. This case was withdrawn by the applicant.

LT 7 LESS RY BLK 21, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20728

Action Requested:

Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9 & 1221.G.14), located: 526 North Main Avenue West.

Presentation:

Lorenda Alazondo, 7777 East 38th Street, Tulsa, Oklahoma, was present for Lamar Outdoor Advertising.

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 **ACCEPT** a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9 & 1221.G.14), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

S85 LTS 6 & 14 & ALL LTS 7 8 & LT 9 LESS BEG SWC THEREOF TH N44.75 NE152.62 EL S17 W150 POB & N15 LT 13 & N42 S85 W125 LT 13 BLK 11 , NORTH TULSA, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20729

Action Requested:

Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9 & 1221.G.14), located: 6500 South 105th East Avenue.

Presentation:

Lorenda Alazondo, 7777 East 38th Street, Tulsa, Oklahoma, was present for Lamar Outdoor Advertising.

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 **ACCEPT** a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9 & 1221.G.14), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

LT-8-BLK-6, UNION GARDENS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20730

Action Requested:

Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9 & 1221.G.14), located: 8515 East Skelly Drive South.

Presentation:

Lorenda Alazondo, 7777 East 38th Street, Tulsa, Oklahoma, was present for Lamar Outdoor Advertising.

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 **ACCEPT** a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9 & 1221.G.14), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

LT 1 BLK 1, Grizzly Mountain Mercantile, a resubdivision of part of TRI-CENTER VILLAGE ADD., City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20731

Action Requested:

Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9 & 1221.G.14), located: 9510 East Broken Arrow Expressway South.

Presentation:

Lorenda Alazondo, 7777 East 38th Street, Tulsa, Oklahoma, was present for Lamar Outdoor Advertising.

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 **ACCEPT** a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.G.9 & 1221.G.14), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

BEG 1052.2N SWC E/2 E/2 NE TH N510 TO SLY RW BA EXPY TH SE359.86 S368.79 W331 POB LESS BEG 1052.2NSWC E/2 E/2 NE TH N296.63 E20 S296.63 W20 POB SEC25 19 13 3.203ACS, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 3:21 p.m.

Date approved: 7/22/08


Chair