

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 991
Tuesday, November 25, 2008, 1:00 p.m.
Lecture Room
Tulsa Central Library
400 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 Monday, November 24, 2008, at 11:07 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 1:01 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 October 14, 2008 (No. 989).

NEW APPLICATIONS

Case No. 20801

Action Requested:

Variance of the required parking from 98 to 77 spaces (Section 1211 - 1213); to permit a restaurant and prep. kitchen, located: 8104 South Sheridan Road.

Mr. Stephens abstained from this case.

Presentation:

Taylor Clark, 3142 South Gary, stated this is a unique business. The majority of the floor space is a preparation kitchen with no public access. There are six employees working in the 6,600 sq. ft. They need less than the typical parking. He listed saving green space, future growth, fewer cars near the residential district, as hardship for the variance.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stead**, the Board voted 4-0-1 (White, Henke, Stead, Tidwell "aye"; no "nays"; Stephens "abstained"; no "absences") to **APPROVE** a Variance of the required parking from 98 to 77 spaces (Section 1211 - 1213); to permit a restaurant and prep. kitchen, finding a small number of employees will require very few parking spaces; that the nature of the use of the additional building for manufacturing, preparation, and packaging should lessen the parking intensity; and because there is a drive-in facility it should also lessen the parking; per plan, as on page 2.8 of the agenda, noting the sidewalks along Sheridan Road will be maintained in front of this property to the limits of this property; maintain the screening fences north, south and west between the R districts, landscaping as provided by code; finding this property is extraordinary and exceptional as well as the 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:

LTS 1 & 2 BLK 1, LUCENTA ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20802

Action Requested:

Special Exception to permit a communications tower in an RS-1 district (Section 401); and a Special Exception to reduce the setback of a tower from an adjoining residential and office zoned lot (Section 1204.C.3.g.1), located: 2491 East Skelly Drive.

Presentation:

Greg Ferris, represented T-Mobile Central, LLC, and stated there are antennas on the rooftop of the Expressway Towers, including T-Mobile, US Cellular, and Sprint. The building is being removed by the widening of I-44 Highway. He noted the other potential rooftop locations are being removed. He informed the Board that

representatives from US Cellular and Sprint were present for any questions. Mr. Ferris stated if they built the proposed tower, the three companies were in agreement that it would meet all of their needs and it would even accommodate a couple more collocations. He submitted photographs (Exhibit B-1) to illustrate the benefits of this application. He pointed out a tree buffer. He added that this is a relatively short tower and in proximity to residential and office zoning, but they will not have any impact as far as fall zones for any of the buildings, except the one on their property. He stated the trees and rolling hills would buffer the tower. He stated they do not have any alternatives for providing coverage in this area. There are no other structures available.

Comments and Questions:

Mr. White asked about possible locations between the right-of-way line or on the right-of-way. Mr. Ferris responded that he did not know if the state highway department would allow use of the right-of-way. He added that if they allowed, it would be a year or even two before they would allow construction of a tower because of all the demolition and construction work. The proposed site would be farther from office buildings and residential than a location in the right-of-way. He replied to Mr. Tidwell that this would be a monopole tower with antennas on the outside of the pole. Mr. Ferris also explained that the antennas, which are mounted inside a flag pole are smaller and would not work for T-mobile use in this situation. He added that a flag pole would limit the number of collocations they could have.

Interested Parties:

Rich Brown, 7633 East 63rd Place, Suite 105, Tulsa, Oklahoma, 74133, an RF Engineer for Sprint, stated they will have three flush-mounted antennas on this pole. They control it with a remote electrical control. He informed the Board that a tower of this size will not be required to be lighted. He stated for this particular design it would not work well in a flag pole.

Mr. Henke stated it would help to have a rendering of the proposed monopole.

Mr. Ferris, explained they need to use larger antennas that work on the outside of a pole rather than two smaller ones on the inside of a pole. Mr. Henke asked if Sprint uses any antennas inside a pole in the Tulsa area. Mr. Brown replied there were none that he knew of, as they try to use roof tops as much as possible.

Mr. White asked for the diameter of the proposed tower and a flag pole tower. Mr. Ferris replied that the diameter of a monopole at the base is between 5 ½ to 6 ft. and tapers to 3 ½ to 4 ft. at the top. A flag pole is 4 – 5 ft. at base and tapers less than the monopole. The antennas are mounted on the inside of the flag pole.

Robert Piland, 2446 East 29th Street, stated you cannot screen a 130 ft. tower. He asked if there would be a generator. He wanted more information about the configuration of the tower and number of collocations.

Mr. White asked if there is a hospital grade muffler on the generator. Mr. Ferris replied that they do and it is not tested often. He and Mr. White agreed they are very quiet.

Nancy Setter, 2452 East 49th Street, stated the proposed site is across from her back yard, where they have a pool, and children and dogs play in their yard. She asked if the generator is on all of the time and how close it is to her property line. She expressed concerned about the term fall-zone, and the fact there are no trees along the separation line. She stated her concerns were for safety and aesthetics.

Mr. White asked if she has been on the subject property. She replied that she has, as they have had to shore up their wall between her property and the subject property. The tower site was pointed out to her. She also asked the size of the compound. Mr. White stated the tower would be about 200 ft. from her house.

Denise Piland, 2446 East 49th Street, stated they have no trees in their back yard. Their property backs up to the commercial buildings and she lives next door to Ms. Setter. She reminded the Board they will be dealing with the expressway that is moving closer and the tower. She suggested that the tower be placed near the K-Mart.

Gary Tanner, 1210 South Detroit, Tulsa, Oklahoma, 74120, Project Manager for US Cellular, stated they really have exhausted every possibility within this area of service. He stated the tower at K-Mart is also going away. He assured the Board it is very non-intrusive, the generator runs when there is no electric and it does not make noise. He added that once they are in place they blend in.

Ms. Stead mentioned a tree-like structure for a tower. The response was that in this area of the country they do not blend in with the landscape as well as a silver monopole.

Applicant's Rebuttal:

Mr. Ferris stated the FCC forbids the cellular tower companies from interfering with other services of phones, televisions or other radio frequencies. He indicated the tower would be less of an impact than the building across the street with the antennas on top. He did not know of any monopole that has fallen over. Should one fall they are built to fall from the weakest joint, which is at about sixty feet, and that is well within the setback. Ms. Stead confirmed that the small storage building would be removed.

Board discussion ensued.

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 a communications tower in an RS-1 district (Section 401); and a Special Exception to reduce the setback of a tower from an adjoining residential and office zoned lot (Section 1204.C.3.g.1); with conditions per the requirements of the zoning code that the tower be 130 ft. tall, with flush mount, monopole; tower will not be lighted; ground equipment will be stored open air, surrounded by a 6 – 8 ft. wood, privacy fence, with a locked gated; finding the need because of the removal of an office tower containing antennas for several providers with the widening of I-44 Highway; finding the special exceptions 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, finding they meet all eleven factors required by the code as reviewed by the Board at this time, on the following described property:

E100 W132 N240.8 SE SW SW LESS BEG 500 N & 40E OFSWC SW TH E660 SE93.57 S65.23 W752 N82.3 POB SEC 29 19 13, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20803

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign from another outdoor advertising sign on the same side of the highway (Section 1221.G.9), located: 10903 East Broken Arrow Expressway.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, having provided verification of spacing was present for any questions.

Comments and Questions:

Mr. White questioned the 1,194 ft. to an existing sign. Mr. Joyce reminded the Board of a previous case, explaining the distance Mr. White referred to is not relevant in this case. Mr. White accepted the explanation and agreed there is lawful spacing for this sign.

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** Verification of the spacing requirement for an outdoor advertising sign from another outdoor advertising sign on the same side of the highway (Section 1221.G.9), 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

Case No. 20804

Action Requested:

Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and another liquor store (Section 1214.C.3), located: 6515 East 31st Street.

Presentation:

Raymond Holder, 6515 East 31st Street, Tulsa, Oklahoma, stated this is regarding an existing liquor store that he proposed to expand. He previously submitted a drawing of the shopping center with the application.

Comments and Questions:

Mr. White asked about the expansion, to which Mr. Holder replied he planned to expand to the east.

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 **ACCEPT** Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and another liquor store (Section 1214.C.3), as sited above, based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another above referenced conflicting use be constructed prior to this, on the following described property:

BEG 200N SWC SW TH N679.23 E542.72 S463.65 E25 S416 W368.3 N200 W200 POB LESS W50 and TR BEG 200E SWC SW TH N50 E50 S5 SE30.40 TO PT 40N SL TH E288.3 S40 W368.3 POB SEC 14 19 13, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20805

Action Requested:

Variance of the rear yard requirement in an RS-3 district from 20 ft. (Section 403), located: 712 West 68th Street South.

Presentation:

Esom Ortiz, 712 West 68th Street, Tulsa, Oklahoma, 74132, introduced the previous property owner, Judy Ryan, who came to answer any questions. She explained that when they applied for a permit they were informed there was only seven feet between the property line and the cement pad (Exhibit C-1). She added that the pad was already there and Mr. Ortiz enclosed it.

Judy Ryan, 6802 South Houston Avenue, Tulsa, Oklahoma, 74132, stated that the houses were built without plans for the properties. The fence was constructed with a lean-to on her property.

Comments and Questions:

Ms. Stead asked when the houses were built. Ms. Ryan estimated it was before 1970. Ms. Stead asked if it would be a tremendous hardship for them to remove the dilapidated house. Ms. Ryan explained that Mr. Ortiz is working the project as he can, and everything he has done has greatly improved the property.

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 in an RS-3 district from 20 ft. (Section 403), finding this tract, platted in the 1960's before the current zoning code was enacted in 1970; and finding part of the hardship is that although this tract is in excess of 27,000 sq. ft., it is very shallow, and the placement of the housing structure, per plan as shown on page 6.7 of the agenda; 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:

PRT SE NW SE BEG 300.11N & 131.72W SECR NW SE TH W200 S135 E200
N135 POB SEC 2 18 12, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20282-A

Action Requested:

Modification of a previously approved site plan to permit expansion of an existing Ice Center in a CO District, located: 6413 South Mingo Road.

Mr. Henke recused himself from Case No. 20282-A.

Presentation:

Darin Akerman, 6111 East 32nd Place, Tulsa, Oklahoma, 74135, mentioned the Board previously denied the additional variance request for this site. This plan meets the variance requirements for the lot coverage issue, setback from the centerline of Mingo, and the parking space requirements (Exhibit D-1). There is some reconfiguration of the building to allow better circulation around the indoor arena and more landscaping.

Comments and Questions:

Ms. Stead reminded Mr. Akerman that the Board required on June 13, 2006 the fence be replaced or repaired. She described the disrepair and stated it was a hazard and should be removed. Mr. Akerman replied that they did not move forward with the plans to build.

Rob Elliott, 1141 North Robinson, # 402, Oklahoma City, Oklahoma, 73103, responded that he attended the hearing in September 2007. He stated it was reported to him that the fence was replaced or repaired in sections. The fence was repaired shortly after the Board instructed them. They were waiting on the dirt work to be finished for the sewer and parking lot that could damage the fence. Then they will repair the fence. Ms. Stead repeated that the fence boards are dangerous and need to be removed.

Interested Parties:

Chris Tharp, 21810 East 67th, Broken Arrow, Oklahoma, 74014, stated this is the only sheet of ice for skating in Tulsa. He added that Oklahoma City has three. He indicated it is inadequate for the needs in Tulsa.

Mr. Elliott wanted to clarify that at the last hearing for the parking plan. He explained that the current design is in conformance with the approved variances but it is different than the previous plan. He asked if this could be approved as a conceptual plan.

Rodney Edwards, 6226 East 101st Street, Tulsa, Oklahoma, 74137, stated he is an attorney and represented the neighbors to the north. They were present and protested the relief on August 28th. The proposed use is too large for this lot. He expressed concern regarding parking arrangements with the Miller Swim School. They were also concerned about overflow parking. They asked for a permanent mutual access agreement on the south side of the property.

Applicant's Rebuttal:

Mr. Akerman responded that a parking agreement was signed on August 22, 2008 and he acknowledged it could be cancelled by verbal or written notice. He stated the site plan shows 239 parking spaces on the site, and 237 was required by the Board previously. They have redesigned and worked with the Fire Marshall to provide for emergency access. There is a permanent mutual access agreement as

part of the subdivision plat. Landscaping and a screening fence will be constructed and maintained.

Alec Hines, General Manager, Oiler's Ice Center, 5910 East 100th Place, Tulsa, Oklahoma, asked to speak. He stated that he did repair the fence after the original meeting in 2006. Wednesday and Friday nights they need overflow parking, which begins after the swim school's operating hours.

Board Action:

On **Motion** of **White**, the Board voted 4-0-1 (White, Stephens, Stead, Tidwell "aye"; no "nays"; Henke "abstained"; no "absences") to **APPROVE** a Modification of previously approved site plan to permit expansion of an existing Ice Center in a CO District, per conceptual plan as shown on page 7.6 of the agenda, finding the special exception will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

LT 1 LESS S158.16 THEREOF BLK 1, BALDWIN ACRES RESUB L13-15 B7
UNION GARDENS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20806

Action Requested:

Special Exception to permit a manufactured home in an RS-3 district (Section 401); and a Special Exception to extend the one year time limitation (Section 404.E.1), located: 4817 South 30th Avenue West.

Mr. Tidwell out at approximately 2:44 and returned at 2:46 p.m.

Presentation:

Roger Criner, 11727 East Admiral, Tulsa, Oklahoma, 74116, represented Clayton Homes. The residential package includes sidewalk, brick skirting, covered porches, guttering, landscape package and driveway.

Comments and Questions:

In response to questions from the Board he replied that he did not speak with any of the neighbors. He stated the home is brought in on tires, wheels and axles, which are all removed and the home secured to a permanent foundation. He indicated the home is a brand new 32' x 76' home. The existing framed garage is going to remain.

Interested Parties:

Kay Price, 5815 South 31st West Avenue, Tulsa, Oklahoma, stated that in this large neighborhood the homes were built in the 1930's through 1950's. This is one of the worst streets with some dilapidated houses, and heavy rental use. There are a variety of older and newer homes in the neighborhood. She indicated there

were numerous vacant lots. The only other mobile home is old and was grandfathered in. She mentioned that two lots away there is a habitat home and another one will be built next to it on a vacant lot. She was opposed to this application, stating it was not appropriate for this neighborhood.

Linda Fitzgerald, 4315 South 27th West Avenue, President of the Southwest Tulsa Chamber of Commerce, stated that mobile homes are not a part of this neighborhood. They began code enforcement like the Kendall-Whittier Neighborhood to clean up the neighborhood. She expressed concern that it would lower property values.

John Fothergill, 4826 South 31st West Avenue, stated he lives two blocks from the subject property. He believed the mobile home should be in a mobile home park. He pointed out that per the plan on page 8.7 of the agenda, the front door would be on the side yard, with the end of the home facing the street. He also noted they would have to leave off the porch(s) to meet the side yard setbacks.

City Councilor Rick Westcott, 2508 West 68th Place, Tulsa, Oklahoma, submitted a petition with twenty-five signatures of those opposed. Almost all of these homeowners are within a two block radius of the subject property. He submitted photographs of the immediate area (Exhibit E-2). They consider a mobile home as inappropriate in this neighborhood.

Applicant's Rebuttal:

Mr. Criner responded to the Board that mobile homes have improved over the years with much higher quality materials and craftsmanship. Ms. Stead asked if he was presenting this application for a home for himself. He replied that he represented the buyers of the home. He submitted photographs (Exhibit E-3) of homes in the area. He assured the Board that it is a good structure that would not deteriorate as mobiles used to.

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 **DENY** a Special Exception to permit a manufactured home in an RS-3 district (Section 401); and a Special Exception to extend the one year time limitation (Section 404.E.1), finding these special exceptions will not be in harmony with the spirit and intent of the code and will be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

LT 13 BLK 14, CARBONDALE, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

Case No. 20807

Action Requested:

Variance of the setback requirement for a sign of 1/2 the right-of-way width designated on the Major Street and Highway Plan from the centerline of an abutting street (Section 1221.C.5), located: 2525 East 21st Street South.

Presentation:

Richard Gregg, 1889 North 105th East Avenue, Tulsa, Oklahoma, stated the existing sign on the subject property has wood rot at the base of the post. The owner decided they want to replace the sign with internal lighting and a steel structure. It would be the same size and height of the existing sign. He discovered it is in the designated right-of-way for 21st Street. It will require a setback, and the only alternative is to move it behind the tree line. They would have to remove mature trees to make it visible. He identified signs along 21st Street with photographs (Exhibit F-1) with less than a 50 ft. setback.

Comments and Questions:

Mr. Cuthbertson stated the license agreement is necessary to have the sign in the right-of-way.

Interested Parties:

Jay Jones, 2617 East 21st Street, Tulsa, Oklahoma, represented 2525 Partnership and Clark Brooster, one of the principals. He restated the dilemma for replacement and repair of the sign.

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 setback requirement for a sign of 1/2 the right-of-way width designated on the Major Street and Highway Plan from the centerline of an abutting street (Section 1221.C.5), with conditions for a steel structure, internal lighting; it is required the applicant obtain a license agreement with the City of Tulsa to allow it in the City right-of-way, and such proof of agreement be furnished to INCOG; finding the sign is out of alignment with other signs along 21st Street and is relatively small and not being increased in size, it is proposed to replace the wooden sign, which has deteriorated; finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

LTS 6 & 7 BLK 2 GILBERT ADD & LT 10 BLK 4 WILMAC KNOLL ADD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20809

Action Requested:

Special Exception to permit automobile sales (accessory to the auction house) in a CS district (Section 701); and a Variance to permit open air storage or display of merchandise offered for sale within 300 ft. of an R district (Section 1217.C.2), located: 12835 East 11th Street.

Presentation:

Sonya Turney, 12835 East 11th Street, Tulsa, Oklahoma, proposed to auction cars occasionally, accessory to their auction house (Exhibit G-1).

Comments and Questions:

Ms. Stead asked if they would also sell RV's, motorcycles or pickups. She responded that they sell whatever they are commissioned, but do not plan for large items like boats and RV's. She stated they applied for a used auto dealer license. Mr. Cuthbertson interjected that the application was advertised for automobile sales, which does not exclude a light truck. Mr. Ackermann suggested they limit it to automobiles, pickups under ½ ton. Ms. Stead reminded Ms. Turney they can only park the automobiles on the east 135 ft. that is zoned CS, not in the OL district. Ms. Stead asked for confirmation of the limit of twelve automobiles, to which Ms. Turney agreed. Ms. Turney stated they intend to buy only late model automobiles, which are clean and in good resale condition. The Board members informed Ms. Turney of the conditions they would place on the approval and she was in agreement with those conditions. Mr. Stephens informed her that zoning would require a fence.

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 Special Exception to permit automobile sales (accessory to the auction house) in a CS district (Section 701); and a Variance to permit open air storage or display of merchandise offered for sale within 300 ft. of an R district (Section 1217.C.2), with conditions: with limited parking to east 135 ft. of the CS portion of the property for twelve automobiles and pickups not over ¾ ton (stored on the southeast side of the property opposite the nearest R district only; no other storage of merchandise, parts, pieces, tires, batteries; no mechanical or other repair work permitted on the premises outside; no advertising signs, banners or other items shall be flown and the only advertising shall be limited to small signs on the automobiles or pickups at auction night; these things as stated in letter dated 11/14/08, page 11.7 of the agenda; finding by reason of extraordinary or exceptional conditions applying only to accessory use; the 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; and in granting the special exception, which this Board limits to a period of five years from today's date, November 25, 2008, the Board finds the special exceptions 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. Stephens had a question on the motion wanted to know if there is a provision for parking on a hard surface. Ms. Stead responded that the property is already paved.

Ms. Stead stated the motion she made is complete regarding the following described property:

W130 SE SE SE SE & E6 SW SE SE SE LESS S50 FOR ST SEC 5 19 14, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20810

Action Requested:

Minor Special Exception to reduce the required front yard from 25' to 23.5' to permit an existing residence (Section 403), located: 10518 East 6th Street South.

Presentation:

Darrell Galvin, the applicant was not present. Mr. Cuthbertson stated this application was just to clear the title. The Board members saw no need for the applicant to be present. Mr. White pointed out the arc in the building line, which was the cause for the error.

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 Minor Special Exception to reduce the required front yard from 25' to 23.5' to permit an existing residence (Section 403), finding the special exception will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

LT 7 BK 16, WAGON WHEEL ADDN B15-18, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20811

Action Requested:

Variance of the maximum coverage of a required rear yard by a detached accessory building in the RS-2 district (Section 210.B.5.a), located: 2640 South Trenton Avenue.

Presentation:

Leslie Brier, 2640 South Trenton, proposed to rebuild an existing garage in the same location. The original garages take up more space than the new zoning laws allow. She referred to the site plan (Exhibit H-1). She plans to enlarge it for better access and use of the garage.

Interested Parties:

Terry Steele, 2636 South Trenton, Tulsa, Oklahoma, 74114, expressed support of the needed improvement that is in keeping with the architectural style of the neighborhood. He is the neighbor on the north with a driveway adjacent to the one on the subject property. The lots are very long and narrow.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the maximum coverage of a required rear yard by a detached accessory building in the RS-2 district (Section 210.B.5.a), per plan as shown on page 13.6, finding this property platted prior to 1970 is very shallow containing only 6,382 sq. ft., and the greatest width of 55 ft. tapers to 45 ft. at the rear property line, the existing garage is dilapidated and needs to be replaced, finding by reason of 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 on the following described property:

LT 19 BK 14, TERWILLEGER HGTS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20825 & 20826

Action Requested:

Appeal the determination of an Administrative Official to issue a building permit (permit # 177755), located: 10 North Yale Avenue.

Mr. Cuthbertson stated the applicant requested the Board hear these two cases at the next regularly scheduled meeting, December 9, 2008 rather than January 13, 2009.

Mr. White and Mr. Henke recused themselves from these two cases.

Presentation:

Bill LaFortune, 1100 Mid-Continent Tower, Tulsa, Oklahoma, 74103, represented the Tulsa Housing Authority. He introduced Louis Bullock, with the Mental Health Association. He requested the Board to expedite the hearing of these applications because of the unique situation. They are, on the face, challenges to decisions made by City Zoning Officials to grant zoning clearances and building permits for an apartment building. He indicates the appeals are about base discrimination against those with mental illness rather than the construction. If it was a legitimate zoning challenge he did not believe they would be at this hearing. He refuted the appellants' complaint that they could not attend the December 9, 2008 hearing but could attend one in January. He pointed out the appellants made a zoning analysis, which was reviewed and rejected by the City. Now they ask for another month and one-half, when they have attached the same zoning analysis to the appeal.

Comments and Questions:

Ms. Stead asked what would be the problem if these cases were heard in January. Mr. LaFortune deferred to Mr. Bullock.

Mr. Cuthbertson interjected that in order to expedite these cases, staff would have to notify by alternative means and would require a special notification to the Tulsa World.

Louis Bullock, attorney, 110 West 7th, Tulsa, Oklahoma, stated the apartments are being built in cooperation with his client, the Mental Health Association in Tulsa, and will be operated by them. It is 76 units and approximately ½ will be designated for people who have been formerly homeless and have a mental illness. The downtown YMCA will be closed by January 1, 2010, and displace occupants. Funding is available and would not delay this project.

Ms. Stead asked if he had information on the length of construction schedules for similar projects. He replied they have a 300-day construction schedule. She asked Mr. Alberty for other cases expedited by the Board. Mr. Alberty did not have memory of any. He stated the cut-off date for the December meeting was October 30, 2008. Part of the problem was the holidays and only one meeting in December. Ms. Stead also noted they expect a large attendance and small room accommodations. Mr. Alberty mentioned other complications of policy for location of a special meeting.

Interested Parties:

Susan Plank, 2405 East Skelly Drive, Tulsa, Oklahoma, CEO of the YMCA of Greater Tulsa. She stated they have worked on this for a long time and were given plenty of notice by the Fire Marshall. She was in support of expediting this project because of the limited construction time of 300 days.

Julie Hall, 504 South Alleghany Avenue, is Chair of 'Who Owns Tulsa?', and President of the White City Neighborhood Association. She read a prepared statement, which included a summary that indicated the applicants did not state grounds for expediting the hearing; this would significantly and materially impair their ability to prepare. She added they have no objections to this facility and are only seeking reasonable protections as related to health and safety allowed by law. She stated they first heard of this project after the first hearing. They have focused on trying to find a solution that would be workable for all parties. She continued stating they focused on mediation. They have no intention of discriminating. Ms. Hall noted the applicants did not do an outreach to the neighborhood.

Ms. Stead asked about her statement that their group has no objection to the project. Ms. Hall acknowledged this statement and understood that it is admirable and needs to happen. Mr. Stephens asked what part of it they feel they have been left out. She replied the addressing of the management of the facilities so it will meet the health and safety concerns they have. Ms. Stead asked what this has to do with the timing of the hearing, to which she replied to have time to prepare to make their argument of why a special exception is required. Ms. Hall stated that on September 9, 2008 she attended a subcommittee meeting where she was allowed to address some of the issues. Ms. Stead asked about her statement to address or participate in the management of the facility. She responded that they as the neighborhood affected by the facility would like to have some assurances about the management of the facility to ensure the health and safety of their neighbors. Ms. Stead stated that she read the HUD document that provides for people to oversee similar facilities with standards. She did not think a homeowner's association could change those standards.

Ms. Stead asked what her group's number one reason for the negotiations. Ms. Hall responded that she would not go so far as to say they have no problem with the project. She indicated that she could not talk about what happens in mediation because it is confidential. They asked for the mediation to bring the neighborhood and other parties together, to lay out their issues on a common ground. The neighbors were upset about how they found out about the facility. Her hope was to help them all to be good neighbors and they were not able to achieve that goal.

Applicant's Rebuttal:

The applicant did not have a rebuttal.

Board Action:

On **Motion** of **Tidwell**, the Board voted 3-0-2 (Henke, Stead, Tidwell "aye"; no "nays"; White, Stephens "abstained"; no "absences") to **Move** Case No. 20825 and Case No. 20826 to the meeting of December 9, 2008, on the following described property:

S220.75 LTS 1 THRU 3 LESS BEG SECR LT 1 TH W64.15NE71.57 N170.75
E15.25 S220.75 POB FOR HWY BLK 1, STANFORD HGTS RESUB L16-20 B2
RODGERS HGTS SUB, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Alberty informed the Board that the legal notices would need to go out by the following Saturday in an alternate publication. The staff will do all they can to put the notices out. Mr. LaFortune stated that he and his partner will assist the staff. Mr. Ackermann informed the Board that the essential part is that the notices are out by the deadline to meet the requirements of the Open Meeting Act.

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

Date approved: 11/13/09


Chair

