

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 999
Tuesday, April 14, 2009, 1:00 p.m.
Tulsa City Council Chambers
One Technology Chamber
175 East 2nd Street

**MEMBERS
PRESENT**

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

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Alberty
Butler
Cuthbertson

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, April 7, 2009, at 3:17 p.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

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

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

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 March 24, 2009 (No. 998).

UNFINISHED BUSINESS

Case No. 20876

Action Requested:

Reconsideration of a Special Exception to permit a kennel (Use Unit 15) in the CS district, located: 11202 East 61st Street South.

Lou Reynolds, 2727 East 21st Street, Tulsa, Oklahoma, stated this case has a pending motion for reconsideration. There is also an appeal to District Court. He

added that his client, the applicant, has lost financing to purchase the property. He suggested the Board accept the applicant's withdrawal. Mr. Reynolds submitted a letter to the Board (Exhibit A-1).

There was discussion of the appropriate action among the Board, attorney and staff.

Presentation:

Drew Downing, 100 West 5th Street, Suite 400, represented Taco Bueno, the applicant. They did not object to Mr. Reynolds's proposal. He acknowledged they would withdraw the appeal. Mr. Boulden asked for a letter acknowledging the withdrawal to the Board of Adjustment.

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 **Rescind** the previous approval (February 24, 2009) of the Board of Adjustment for a special exception to permit a kennel in a CS district; finding the applicant has withdrawn the request for the special exception; and there is no further need for action by the Board; the special exception is null and void, on the following described property:

PRT LT 1 BEG NWC TH E122 S8 E28 S152 E25 S180 W175 N340 POB BLK 1,
NEAL PLAZA, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20889

Action Requested:

Variance of the parking requirement for a commercial shopping center (Section 1211-14 & 19); and a Verification of the spacing requirement for an adult entertainment establishment from an R district, church, school, park, and another adult entertainment establishment (Section 1212.a.C.3); to permit a night club in an existing commercial center, located: Southeast corner of East 61st Street and South Memorial Dr.

Presentation:

Mr. Cuthbertson informed the Board the applicant requested a continuance to April 28, 2009. This is to permit advertisement for an additional request.

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 **CONTINUE** Case No. 20889 to the meeting on April 28, 2009, on the following described property:

LT 1 BLK 1, SOUTHEAST SQUARE, City of Tulsa, Tulsa County, State of Oklahoma

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UNFINISHED BUSINESS

Case No. 20877

Action Requested:

Variance of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign for a church in the AG district (Section 302.B.2); and a Variance of the minimum setback from a visible R district (Section 1221.C.2.c), located: 5415 East 101st Street.

Presentation:

Randall Johnson, 1801 North Willow Avenue, in Broken Arrow, Oklahoma, represented Acura Neon, Inc., and Redeemer Covenant Church. The church has had on-going discussions with the homeowners' associations in the area. The new sign would be to advertise multiple functions at the church.

Comments and Questions:

Ms. Stead asked for the total height. Mr. Johnson replied it would be ten feet. The LED lettering would be amber, which they considered less obtrusive. He stated that only the logo and letters on the monument sign would light up rather than backlighting. He submitted a site plan, and the sign elevation (Exhibits B-1 and B-2).

Interest Parties:

Kent Young, 5506 East 101st Place, Camelot Park, Tulsa, Oklahoma, state he and his wife attended their association meeting with the applicant. They are pleased with the reduction of the height of the sign but object to the overall size of the sign. They like the less conspicuous lighting.

Comments and Questions:

Ms. Stead clarified that he was not concerned about the lighting for his home, but for other homes. Mr. Cuthbertson interjected that the size of the sign is determined in proportion to the frontage of the property. This church has 655 ft. of frontage, which would allow a sign with 131 sq. ft. of display surface area. If the LED element was not on the sign, the church could place a 131 sq. ft. sign, as a matter of right. The display surface area of this sign is only 70 sq. ft. Mr. Young considered this size sign to be out of place for the area.

Applicant's Rebuttal:

Mr. Johnson stated the church appreciates everyone's input. He noted that the Camelot neighborhood is outside of the 300' code required notice area. The associations were notified because of their proximity to the church property.

Interested Parties:

Mr. Young asked to speak again and was acknowledged by the Chair. He stated that the Camelot Homeowners' Association was not aware this case would be heard again today. He indicated they were not informed of these changes and they would not support it because the applicant did not reduce the overall size of the sign.

Applicant's Rebuttal:

Mr. Johnson responded that he was not aware this neighborhood was not informed of the changes. Ms. Stead noted the Camelot neighborhood is outside of the required notice area.

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 requirement that illumination of a sign shall be by constant light to permit an LED element on a sign for a church in the AG district (Section 302.B.2); and a Variance of the minimum setback from a visible R district (Section 1221.C.2.c), per site plan and elevation exhibits submitted April 14, 2009; the overall sign, not including the brick structure, shall not exceed 80 sq. ft. display surface area; subject to the provisions of Section 1221.C.2, with some additions and deletions, as follows: No such sign shall be located within twenty (20) feet of the driving surface of a street. The twenty (20) feet shall be measured in a straight line from the nearest point on a sign structure to the nearest point of the street curb, or edge of the traveled roadway marked or understood as such. There shall be no running, twinkling, flashing, animated, revolving or rotating signs, except any scrolling may be horizontal only; No such sign shall exceed an illumination of seventy (70) foot candles measured at a two (2) foot distance. No such digital sign shall display an illuminative brightness exceeding five hundred (500) NITs at any time between one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise or six thousand five hundred (6,500) NITs between one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset. No such digital sign shall display an illuminative brightness of such intensity or brilliance that it impairs the vision or endangers the safety and welfare of any pedestrian, cyclist, or person operating a motor vehicle. No such digital sign shall resemble or simulate any warning or danger signal, or any official traffic control device, sign, signal or light. No such digital sign shall be permitted to operate unless it is equipped with: a default mechanism that shall freeze the sign in one position or static message if a malfunction occurs; and notwithstanding paragraph 1221.C.2.e., a mechanism able to automatically adjust the display's illuminative brightness according to natural ambient light conditions by means of a light detector/photo cell by which the sign's

brightness shall be dimmed; finding the 741,000, plus or minus, sq. ft. lot, would indicate that a sign of this stature is acceptable and finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, on the following described property:

LT 1 BLK1, REDEEMER COVENANT CHURCH, City of Tulsa, Tulsa County,
State of Oklahoma

Case No. 20669-A

Action Requested:

Amendment to a condition of previously approved event (Special Exception to allow an outdoor special event in the CH, OL and RS-3 zoning district, a Variance to permit the special event to occupy required parking, and a Variance of the setback for a tent from an RS zoning district) to extend the one year time limitation, located: East of the Southeast corner of South Peoria Avenue and East 33rd Street.

Mr. Henke recused himself. **Out at 1:41 p.m.**

Presentation:

J. L. Lewis, 3301 South Peoria, Tulsa, Oklahoma, asked to renew this approval for one year for the Cinco de Mayo event. The neighborhood asked that they clean up immediately after the event; provide port-a-johns; keep the noise down; and stop the amplified music at 7:00 p.m. because it is a school night. They also asked that the applicant notify the neighborhood before the event to remind them. He agreed to stop all music by 9:00 p.m.

Comments and Questions:

In response to questions from the Board, Mr. Lewis stated he has not talked with the police department yet. He has not written out a list of the conditions he agrees to follow for this year.

Interested Parties:

Herb Beattie, 3474 South Zunis Avenue, Tulsa, Oklahoma, asked the Board that approval would include the time limits suggested by the applicant. He stated concern that Board action would be in perpetuity. He also expressed concern that a neighboring business has a permit for two large tents.

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** an Amendment to a condition of previously approved event (Special Exception to allow an outdoor special event in the CH, OL and RS-3 zoning district; a Variance to permit the special event to occupy required parking; and a Variance of the setback for a tent from an RS zoning district) to extend the one year time limitation, with conditions to allow for one more year for this event, meaning this year; for trash pick-up immediately after the event with one additional dumpster than the previous year; eight security people from 4:00 p.m. to 10:00 p.m. on the day of the event; to provide a minimum of four port-a-johns in the event area; door to door notification of the event from 33rd to 35th Streets to Rockford Avenue; post two signs of notice for the event in the neighborhood with date and hours of the event; amplified music to end by 7:00 p.m.; non-amplified music to end by 9:00 p.m.; maximum of two tents; and lights out by 10:00 p.m.; per site plan on page 4.8 of the agenda; finding the hardships to be that the setback from the RS zoned district is actually the zoning district involved for parking lots in their own right; finding the special exception will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; and 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 variances 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 4, LT 5 & the N 18.75 LT 12, BLK 1, OLIVERS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Henke returned.

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NEW APPLICATIONS

Case No. 20187- A

Action Requested:

Amendment to a previously approved site plan (BOA-20187) to permit additions to an existing IL zoned property within 75 ft. of an AG district, located: 3104 North Erie Avenue.

Presentation:

Bryan Lambert, 1525 West 36th Place, Tulsa, Oklahoma, stated the Board approved a site plan in 2006. He added this amendment is for expansion to include a 20 ft. variance around the property to allow for future expansion. The amended plan and topical survey are shown in (Exhibit D-1).

Interested Parties:

There were no interested parties who wished to speak.

Comments and Questions:

There was discussion regarding the extra 20 ft. the applicant indicated in his verbal request. There is an extra 20 ft. on the north side of the amended site plan.

Board Action:

On **Motion of White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Amendment to a previously approved site plan (BOA-20187) to permit additions to an existing IL zoned property within 75 ft. of an AG district, per site plans submitted today, as shown on pages 5.7 and 5.9 of the agenda, on the following described property:

LT 1 BLK 1, BROOKS INDUSTRIAL TRACT, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20887

Action Requested:

Verification of the spacing requirement for a liquor store from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3), located: 1217 North Sheridan Road.

Presentation:

Katrina Kendricks, 519 East 48th Place, Tulsa, Oklahoma, 74126, came before the Board for verification of spacing for a liquor store.

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 a liquor store from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3), subject to the action of the Board being void should another

above referenced conflicting use be constructed prior to liquor store, on the following described property:

W165 S264 LT 2 BLK 1, AVIATION VIEW SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20888

Action Requested:

Variance of the maximum coverage of an unenclosed off-street parking area in the required front yard in an RS-3 district (Section 1303.D) to permit driveways for 3 car garages, located: North of West 81st Street South and South Houston Avenue.

Presentation:

Randy Branstetter, 802 West Main, Jenks, Oklahoma, stated the request for a variance is for the entire Stonebrook Estates (Exhibits E-1 and E-2).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the maximum coverage of an unenclosed off-street parking area in the required front yard in an RS-3 district (Section 1303.D) to permit driveways for 3 car garages, finding marketing trends and increased automobile use has changed since the zoning code was enacted; the variance applies to the entire Stonebrook Estate, as shown on pages 7.6 and lot example on 7.7 of the agenda; and creating driveways no more than 30 ft. in width; in granting this variance the Board finds 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:

All Lots and Blocks, Stonebrook Estates, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20890

Action Requested:

Variance of the maximum coverage of an unenclosed off-street parking area in the required front yard in an RS-3 district (Section 1303.D) to permit driveways for 3 car garages, located: North of the intersection of East. 51st Street and South 163rd East Avenue.

Presentation:

Tracy Puett, 4855 South 165th East Avenue, Tulsa, Oklahoma, appeared for this request for Trinity Creek II (Exhibit F-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the maximum coverage of an unenclosed off-street parking area in the required front yard in an RS-3 district (Section 1303.D) to permit driveways for 3 car garages; driveways will be limited to 30 ft. in width and all paved with concrete; this variance is for Trinity Creek II only; finding that automobile uses and marketing trends have changed since the zoning code was written; and finding these reasons 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; in accordance with the Trinity Creek II site plan, page 9.5 of the agenda, on the following described property:

All Lots and Blocks, TRINITY CREEK II, City of Tulsa, Tulsa County, State of Oklahoma, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20891

Action Requested:

Variance of the maximum building height requirement in the RS-3 district from 35 ft. to 69 ft. (Section 403); and a Special Exception to extend an emergency exit stair and service elevator more than 20' above the top of the principal structure to 26' (Section 208) to permit emergency exit stairs and a service elevator additions to an existing building, located: 3027 South New Haven Avenue.

Presentation:

Scott Smith, 2200 South Utica Place, stated the existing building is six stories tall. The intent of the project is to add emergency stairwells to bring it up to code. The zoning code allows a height of 35 ft. They requested a variance of the height to 69 ft. A service elevator is included in the plans for roof top equipment (Exhibit G-1).

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 building height requirement in the RS-3 district from 35 ft. to 69 ft. (Section 403); and a Special Exception to extend an emergency exit stair and service elevator more than 20' above the top of the principal structure to 26' (Section 208) to permit emergency exit stairs and a service elevator additions to an existing building, in accordance with exhibits on pages 10.7, 10.8, 10.9, and 10.10 of the agenda; and these approvals are for only those improvements to the existing Education Service Center building; finding they are to permit life and safety additions to this building, and are necessary; finding these are 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 that in granting the special exception, 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, on the following described property:

E/2 SE SW SEC 16 19 13, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20893

Action Requested:

Variance of the front yard requirement in an RS-3 district (Section 403) from 25 ft. to 10 ft. - 6 in. to permit an existing dwelling, located: 8510 East 50th Street.

Presentation:

Sarah Bryan, 100 West 5th Street, Suite 111, Tulsa, Oklahoma, 74103, stated the request. She informed the Board that the home was built over 30 years ago on an irregular-shaped lot. It was situated so that a portion of the home encroached on the front-yard, in order to fit the lot. She stated that to require correction by removing the garage would be unnecessary. She noted the garage does not block the view of traffic, nor is it injurious to the public. It lines up with the other homes

on the street. Ms. Bryan added the variance is required because of the special circumstances. Literal enforcement of the zoning code would cause a hardship. She stated there have not been complaints over the years.

Interested Parties:

Lee Moore, 4867 South 85th, Tulsa, Oklahoma, stated he did not object to a variance, but to the amount of variance requested. He added they only need one and a half feet.

Comments and Questions:

Mr. Cuthbertson clarified that the curb is not on the property line. The request is to allow the house where it exists, and that measurement is from the property line that runs parallel to 85th East Avenue.

Mr. Moore stated he was going by the distances on the plat.

Ms. Stead asked if he objected based on the possibility of future construction.

Mr. Moore had no objection as long as nothing is built closer to the street.

Applicant's Rebuttal:

Ms. Bryan stated she spoke with the attorney for the homeowners' association and he was not concerned. She explained this is not about construction. It is only to clear the title.

Comments and Questions:

Mr. Cuthbertson pointed out that often these reductions are by special exception. In this case, the distance is greater than allowed by special exception so it is a variance.

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 Variance of the front yard requirement in an RS-3 district (Section 403) from 25 ft. to 10 ft. - 6 in. to permit an existing dwelling, finding the structure has been in place for at least 30 years and the way it was originally laid out, it was considered to be the sideline, and though they built over it, it does not impede the traffic site line for the intersection; no additional building toward the street on 85th East Avenue; 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:

LT 22 BK 2, REGENCY PARK WEST, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20894

Action Requested:

Variance of the setback requirement abutting a public street from 25 ft. to 22 ft. (Section 903); to permit a building addition, located: 2801 East Dawson Road.

Presentation:

Sammi Alsaqer, 1505 Riverside Drive, Tulsa, Oklahoma, 74109, stated the request is to align the addition with the existing building. They would continue the gable roofline from the existing building to improve the appearance (Exhibit H-1).

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 **APPROVE** a Variance of the setback requirement abutting a public street from 25 ft. to 22 ft. (Section 903); to permit a building addition; per plan as shown on page 12.7 of the agenda; finding this addition will be a continuation of the existing building line in place; finding it will not impair any site line for traffic; 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:

TR BEG NWC SW NE NE TH E8.37 S747.46 TO PT ON NL DAWSON RD SWLY ALG NL RD R/W 1441.25 TO PT ON WL NE N665.85 TO SWC NW NE E APPROX 661.48 TO SECR SW NW NE N TO PT ON NEC SW NW NE E POB SEC 32 20 13 21.563ACS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20895

Action Requested:

Verification of the spacing requirement for an adult entertainment establishment from a church, school, park, and another adult entertainment establishment (Section 1212.a.C.3); a Variance of the spacing requirement for an Adult Entertainment Establishment of 50 ft. from an R district (Section 1212.a.C.3.a); and

a Special Exception to permit a Use Unit 12a use within 150 ft. of R zoned land (Section 701); to permit a wine bar in the existing commercial center, located: 8922 South Memorial Drive, Suite C-3.

Mr. Stephens recused himself. Out at 2:45 p.m.

Presentation:

Brad Lechtenberger, 705 South Elgin, Suite 107, Tulsa, Oklahoma, 74120, stated the owner, Chris Collins, made this request for an adult entertainment center for a wine bar. The property is in PUD 360, which allows for commercial development. The zoning map shows the existing PUD is a combination of RM and CS zoning. The wine bar public entrance doors are within 50 ft. of the RM-zoning district. The actual distance to a housing development is over 700 ft. away. There is a 300 ft. radius from any park, school, church, or any other adult entertainment establishment.

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 **ACCEPT** a Verification of the spacing requirement for an adult entertainment establishment from a church, school, park, and another adult entertainment establishment (Section 1212.a.C.3); a Variance of the spacing requirement for an Adult Entertainment Establishment of 50 ft. from an R district (Section 1212.a.C.3.a); and a Special Exception to permit a Use Unit 12a use within 150 ft. of R zoned land (Section 701); to permit a wine bar in the existing commercial center; according to the applicant, the proposed adult entertainment establishment is over 700 ft. from the nearest existing planned residential area to the west; in granting the variance, the Board finds the 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; and in granting the special exception, the Board finds 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, on the following described property:

LT 1, BLK 1, HOMELAND NO 0102, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Stephens returned.

Case No. 20896

Action Requested:

Variance of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign for a church in the R district. (Section 402.B.4), located: 747 South Memorial Drive.

Presentation:

Richard Craig, 1889 North 105th East Avenue, Tulsa, Oklahoma, presented the sign with an LED message area for the church (Exhibit I-1).

Comments and Questions:

Ms. Stead confirmed with the applicant that the LED can be up to two lines and the total height of the sign is 20 ft.

Terry Rush, 747 South Memorial Drive, stated he is the Senior Pastor. He informed the Board that they allow civic organizations to meet at the church during the week. They actively participate with Lindbergh Elementary to provide supplies to the children.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Henke, Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign for a church in the R district. (Section 402.B.4), this sign is approved as shown on page 14.7 of the agenda; with a total height of no more than 20 ft., and a 24" LED, no more than a two-line sign; subject to the provisions of Section 1221.C.2, with some additions and deletions, as follows: this sign shall contain no running lights, twinkle lights, animation, revolving or rotating, except any scrolling can be horizontal only; No such sign shall be located within twenty (20) feet of the driving surface of a street. The twenty (20) feet shall be measured in a straight line from the nearest point on a sign structure to the nearest point of the street curb, or edge of the traveled roadway marked or understood as such. No such sign shall exceed an illumination of seventy (70) foot candles measured at a two (2) foot distance. No such digital sign shall display an illuminative brightness exceeding five hundred (500) NITs at any time between one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise or six thousand five hundred (6,500) NITs between one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset. No such digital sign shall display an illuminative brightness of such intensity or brilliance that it impairs the vision or endangers the safety and welfare of any pedestrian, cyclist, or person operating a motor vehicle. No such digital sign shall resemble or simulate any warning or danger signal, or any official traffic control device, sign, signal or light. No such digital sign shall be permitted to operate unless it is equipped with: a default mechanism that shall freeze the sign in one position or static message if a

malfunction occurs; and notwithstanding paragraph 1221.C.2.e., a mechanism able to automatically adjust the display's illuminative brightness according to natural ambient light conditions by means of a light detector/photo cell by which the sign's brightness shall be dimmed. The Board finds 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 2 & 3 BLK 6, CLARLAND ACRES, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20897

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) and a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10), located: 5520 East Skelly Drive.

Presentation:

Dax Neal, 2123 East 18th Street, Tulsa, Oklahoma, appeared for the hearing of this verification request.

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) and a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10), 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 6 BLK 1, MIDTOWN VILLAGE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20898

Action Requested:

Variance of the required parking for a commercial shopping center (Section 1211 - 14); a Special Exception to permit a Use Unit 12a use (bar) within 150 ft. of R zoned land (Section 701); and a Verification of the spacing requirement for an adult entertainment establishment from an R district, church, school, park, and another adult entertainment establishment (Section 1212.a.C.3); to permit the expansion of an existing bar in the CS district, located: 12630 East 31st Street.

Presentation:

Steve Coble, 108 East Juno, Broken Arrow, Oklahoma, stated this has been a bar since 1985, and non-conforming as to parking. He added that of the 73 parking spaces, there are 54 for his customers. He does not need very many of them. He has expanded 1,000 sq. ft.

Mr. White out at 3:05 p.m.

Comments and Questions:

Ms. Stead noted all of the items he has indicated on his verification. Mr. Coble submitted photographs (Exhibit J-1).

Interested Parties:

John Ridley, 12631 East 31st Place, Tulsa, Oklahoma, stated his back door is directly in line with the back door of the bar, about 50 ft. away. He complained that they take the trash out that door. He also mentioned that the male patrons use the alley instead of the restroom.

Mr. White returned at approximately 3:07 p.m.

William C. Cooper, 7709 South Lakewood, Tulsa, Oklahoma, stated he has property near the subject property, 12619 East 31st Court. He mentioned he is a realtor and that the bar has a negative effect on the property values.

Ken Barton, 2641 West El Paso Street, Broken Arrow, Oklahoma, stated he owns the property at 12627 East 31st Place. He expressed opposition to the application, because of the negative impact on his rental property.

Applicant's Rebuttal:

Mr. Coble stated he expanded into a 20' x 50' space. He discovered that he needed relief from the zoning code after the construction. He added six more restroom stalls. Mr. Stephens asked for a hardship for the variance. There was some discussion regarding the hardship, among staff, and the Board. Mr. Coble mentioned that the wind blew off the roof on June 3rd. He took advantage of the vacant space next to the bar to add the square footage to his business.

Ms. Stead suggested a continuance to allow time for the applicant and neighbors to discuss the application.

Mr. Boulden mentioned the provisions in Section 1408 of the zoning code allowed non-conforming bars to exist only if there is no expansion.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20898 to the meeting on April 28, 2009, to allow time for the applicant to find a compromise with the interested parties, on the following described property:

LT 1 BLK 1, DORTHY JEAN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20905

Action Requested:

Minor Special Exception to reduce the required front yard from 25 ft. to 20 ft. (Section 403) to permit residential expansion, located: 3013 South Boston Place.

Presentation:

James Boswell, 1305 East 15th Street, Suite 201, stated he is the architect on this project. He proposed to expand to allow for a garage addition and a traditional front porch (Exhibits K-1 and K-2). He pointed out the transition in the neighborhood. His client wanted to maintain the integrity and scale of the residential appearance. He noted other properties that encroach on the front yard.

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 **APPROVE** a Minor Special Exception to reduce the required front yard from 25 ft. to 20 ft. (Section 403) to permit residential expansion, per plan as shown on page 17.6 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 21 & S15 LT 22 BLK 10, TRAVIS PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20724-B

Action Requested:

Minor Special Exception to amend a site plan (*BOA-20724: a Special Exception to permit a memory care/assisted living center (Use Unit 8) in an OM district and BOA-20724-A: a Variance of the setback requirement for a parking area accessory to a Use Unit 8 from an abutting RS district, a Variance of the 5 ft. landscape separation of a parking area from an abutting residential district, and a special exception to modify the required screening of a Use Unit 8 - assisted living facility - from an RS district*), located: 7210 South Yale Avenue.

Presentation:

Janine VanValkenburgh, 201 West 5th Street, Suite 501, Tulsa, Oklahoma, 74103, represented Cypress Springs Memory Care Assisted Living Center. It is located at 72nd on the west side of Yale. The Board approved the previous application for a special exception, for a Use Unit 8, in an OM-zoned district, per plan. There have been a couple of minor changes to the plan, the configuration and reduction of the parking spaces in the southwest corner of the lot (Exhibit L-1). They would still meet the required parking. The permit officer requested the plans also show the location of pads for the backup generator and for a transformer in the southwest corner.

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 **APPROVE** a Minor Special Exception to amend a site plan in BOA Case No. 20724-B, per the amended plan submitted April 14, 2009, as shown on page 18.7 in the agenda, finding the minor 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:

S250 N917.78 E410 NE NE LESS E60 THEREOF, CYPRESS SPRINGS-TULSA, City of Tulsa, Tulsa County, State of Oklahoma

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BOARD MEMBER COMMENTS

Ms. Stead talked with City Councilor Westcott, and he asked her to send him the information she has received on the tent permit for "In the Raw" for council discussion. She added she was not sure of the appropriate procedure to change the zoning or to stop the Permit Office from giving permits not in accordance with the zoning code. She assumed it begins with the City Council.

There being no further business, the meeting adjourned at 3:40 p.m.

Date approved: 4/28/09

Frank X. [Signature]
Chair