

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1007
Tuesday, August 11, 2009, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

**MEMBERS
PRESENT**

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

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Alberty
Cuthbertson
Butler

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, August 6, 2009, at 8:09 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Henke called the meeting to order at 1:03 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 July 28, 2009 (No. 1006).

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20953

Action Requested:

Variance of the setback requirement for a 46 ft. – 8 in. tall ground sign from an abutting street from 25 ft. to 17 ft. in a CO district (Secion 1221.D.1), located: 3141 East Skelly Drive.

Mr. Cuthbertson informed the Board that the applicant made an untimely request for a continuance. However, the continuance is necessary, as they found new information that would prevent the Board from acting on the variance request. The request is for a 46 ft. 8 in. sign but the actual sign is 50 ft. He added that a new notice could be sent out in time for the September 8, 2009 meeting.

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. 20953 to the meeting on September 8, 2009, on the following described property:

LT 4 BLK 1, TRADE WINDS ADDN RES L4-6 & PRT L14-16&17 B2 VILLA GROVE, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20954

Action Requested:

Minor Special Exception to modify a previously approved site plan to permit addition and reconfiguration of existing parking, located: 6210 South 105th East Avenue.

Mr. Cuthbertson stated that prior to the hearing it was determined by the applicant that additional relief was needed. The new notice was prepared for the August 25, 2009 hearing.

Comments and Questions:

Ms. Stead stated the information given to the Board would not be sufficient to make a decision and they would need more before the next hearing.

Presentation:

Jim Beach, 200 East Brady, Tulsa, Oklahoma, Wallace Engineering, agreed, and stated they have a new plan that will be 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 **CONTINUE** Case No. 20954 to the meeting on August 25, 2009, on the following described property:

LTS 1 THRU 4 LESS BEG NEC TH W169.66 SE243.74 N174.67 POB BLK 5, UNION GARDENS, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20962

Action Requested:

Special Exception to permit an Asphalt Plant and Accessory uses (Use Unit 27) in an IM district (Section 901), located: 12142 East Apache Street North.

Presentation:

Mr. Cuthbertson stated the property was identified by the County Assessor's office as having the address listed on Apache Street. He added this is not accurate and it is not connected to Apache Street. Therefore, the application needs to be re-advertised with the accurate address on 129th East Avenue, for August 25, 2009.

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. 20962 to the meeting on August 25, 2009, on the following described property:

PRT NE BEG 1876.90S NEC NE TH S APPROX 762.664 W2640 N APPROX 519.317 TO SL RR R/W TH NELY ALONG SLRR R/W POB SEC 29 20 14, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20937, 20938, 20939

Action Requested:

Variance of the maximum permitted coverage of a required front yard by a parking area (driveway) in an RS-1 district from 25% (Section 1303.D); and a Special Exception to modify the height of a fence in the required front yard from 4' to 8' (Section 210.B.3), located: 2806 East 31st Street.

Variance of the maximum permitted coverage of a required front yard by a parking area (driveway) in an RS-1 district from 25% (Section 1303.D); and a Special Exception to modify the height of a fence in the required front yard from 4' to 8' (Section 210.B.3), located: 2810 East 31st Street.

Variance of the maximum permitted coverage of a required front yard by a parking area (driveway) in an RS-1 district from 25% (Section 1303.D); a Special Exception to modify the height of a fence in the required front yard from 4' to 8' (Section 210.B.3); and a Variance of the rear yard requirement from 25 ft. to 21' - 10" (Section 403), located: 2814 East 31st Street.

Mr. Cuthbertson informed the Board there was a last minute request for continuance of these three cases. The applicant's representative was present to explain the request.

Mr. Henke recused himself on Cases 20937, 20938, and 20939, out at 1:10 p.m.

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, Oklahoma, informed the Board that he was hired to handle these cases on August 10, 2009, in the late afternoon. He stated the applicant hired an attorney who did not show up at the last meeting. Mr. Reynolds state he spoke with two of the interested parties before the meeting and they understood and do not object to a continuance. He needs time to prepare for a presentation of this case.

Comments and Questions:

Ms. Stead stated the Board understands that a lot split was approved in the past by TMAPC. She expected a good hardship for the variance.

Interested Parties:

Fred Heggenbart, 2828 East 33rd, Tulsa, Oklahoma, asked when the lot split was approved. Mr. Cuthbertson replied that the first lot split was executed in 2000.

Ms. Stead stated she wanted to know where the property line is located in relation to the curb. Mr. Reynolds replied that he would find out.

Board Action:

On **Motion of White**, the Board voted 4-0-1 (White, Stephens, Stead, Tidwell "aye"; no "nays"; Henke "abstained"; no "absences") to **CONTINUE** Cases 20937, 20938, and 20939 to the meeting on August 25, 2009, on the following described properties:

2806 East 31st Street
PRT LT 1 BEG NWC TH E122.25 S156.11 SWLY127.86 N194 W100 POB BLK 2, CHARLANE EST AMD B1-2, City of Tulsa, Tulsa County, State of Oklahoma

2810 East 31st Street
PRT LT 1 BEG SWC TH N96 NE127.86 N156.11 E30 S156 SE104.42 S112 W254.25 POB BLK 2, CHARLANE EST AMD B1-2, City of Tulsa, Tulsa County, State of Oklahoma

2814 East 31st Street
PRT LT 1 BEG NEC TH S178 NWLY104.42 N156 E102 POB BLK 2, CHARLANE EST AMD B1-2, CHARLANE EST AMD B1-2, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Henke returned at 1:14 p.m.

* * * * *

UNFINISHED BUSINESS

Case No. 20950

Action Requested:

Variance to increase the permitted height for a fence/wall located in the required front yard from 4 ft. to 6 ft. (Section 210.B.3); a Variance of the maximum permitted height for a detached accessory building located in the required rear yard to two (2) stories, 21 ft. at the top plate, and 26 ft. total (Section 210.B.5.a); and a Variance of the maximum amount of coverage for a detached accessory building of the required rear yard in the RS-1 district from 20% to 29% (Section 210.B.5.a);

The Variance of the maximum number of unconnected parking areas permitted in the front yard from one (1) to two (2) (Section 1301.C) was withdrawn by the applicant after redesigning the site plan, located: 2627 East 33rd Street.

Presentation:

Roy Johnsen, 201 West 5th Street, Suite 501, Tulsa, Oklahoma, 74103, represented Dr. and Mrs. Frank Fore, the owners of the property. This RS-1 tract has 120 ft. fronting 33rd Street and is 136 ft. deep, equaling 16,320 sq. ft., which exceeds the standard 13,500 sq. ft. They propose a wall in the front yard on this dead end street with curb and gutter. The plan (Exhibit AA-1) provides for a turn-around space as shown in photographs provided for the agenda packet. The wall would block the car lights from the house. He pointed out that the architect, Jack Arnold, has accomplished the same screening with heavy landscaping on his property. He stated that another neighbor, Mr. Baker, used a shorter wall with significant landscaping. Mr. Johnsen stated that though the notice went out for a variance to permit a six foot wall, it can be granted by a special exception. He commended Mr. Arnold for contacting everyone in the area regarding the plans for the wall and garage. He submitted a petition of support (Exhibit AA-2) for both requests, with signatures from homeowners of abutting properties, those across the street and both sides of the street within four blocks of the subject property. Mr. Henke asked if there are any other six foot walls in the neighborhood. Mr. Johnsen replied there were not. Mr. Johnsen pointed out that a portion of the house is two-story but is predominantly a one-story. The drive to the garage is on the east property line. The setback to the house from that property line is 16 ft. They proposed an eight-foot masonry wall behind the required front yard on the north boundary, along the side yard and on the west. He mentioned the livability space is 10,532 sq. ft., which is about a 50% increase. The house is 6,000+ sq. ft. and the proposed three-car garage is well below 40% of the floor area of the dwelling. Mr. Johnsen indicated this application is to meet a lifestyle change, to which the code is part of the hardship. He noted garages are bigger now. The second story would be guest quarters or a cabana for the pool. He referred to the plan, which provides a large interior court yard and the garage would provide privacy for the homeowner and the neighbors. If you added those two spaces together it would exceed the rear yard requirement. This is a lifestyle change. The space over the garage would not be rental property. The location of the garage

establishes a much greater side yard between the subject property and the neighbor to the east. Mr. Johnsen pointed out the property northeast of the subject property has a very large free-standing garage and quarter facility. Also, the Baker property to the west has a free-standing garage with a second story.

Interested Parties:

Bill LaFortune, 1100 Mid-Continent Tower, Tulsa, Oklahoma, 74103, represented Villard Martin, III, trustee of the Gertrude Martin Trust, and owner of the property directly to the east of the subject property. Mr. Arnold had good communication with this family before Mr. LaFortune took the case; and met with him and Mr. Johnsen at the subject property. He was supportive of this plan and indicated it enhances the property. He explained it as such to the Martin family.

Applicant's Rebuttal:

Mr. Johnsen did not have a rebuttal.

Board discussion ensued.

Board Action:

On **Motion** of **Stead**, the Board voted 4-1-0 (White, Stephens, Stead, Tidwell "aye"; Henke "nay"; no "abstentions"; no "absences") to **APPROVE** a Special Exception of the maximum permitted height for a fence/wall located in the required front yard from 4 ft. to 6 ft. (Section 210.B.3);

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 for a detached accessory building located in the required rear yard to two (2) stories, 21 ft. at the top plate, and 26 ft. total (Section 210.B.5.a); a Variance of the maximum amount of coverage for a detached accessory building of the required rear yard in the RS-1 district from 20% to 29% (Section 210.B.5.a); and acknowledged that the Variance of the maximum number of unconnected parking areas is not needed and has been withdrawn; finding the lot contains in excess of 16,300 sq. ft.; that the design as presented is compatible with the neighborhood; considering the special exception for the fence to 6 ft., the maximum height will be 6 ft., though not shown on the plan, it is dictated by this Board except in the turnaround: that the two-story building approved will have no windows on the north or east side on the second story; it shall contain a 21 ft. top plate, not to exceed 26 ft. in total height; the cabana for the pool, containing two stories shall have no rental use; and the front wall shall be set back 12 ft. from the property line, per plan as shown on page 2.7 of the agenda packet; finding 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; and in granting the variances, the Board found 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 NE NW BEG 998S & 936E NWC NE NW TH E120 S161 W120 N161 POB
LESS S25 FOR ST SEC 20 19 13, City of Tulsa, Tulsa County, State of
Oklahoma

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Mr. Tidwell out and returned approximately 1:48 to 1:50 p.m.

Case No. 20944

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 library in the R district (Section 402.B.4); and a *Variance of the 50 ft. setback from the driving surface of a signalized intersection (Section 1221.C.2.a, withdrawn)*, located: Southwest corner of East 51st Street and South Hudson Avenue.

Mr. Cuthbertson informed the Board that since the time this application was advertised, it was determined that the variance of 50 ft. setback from the driving surface of a signalized intersection is not applicable to this sign as it is in an R district.

Presentation:

Gary Larson, 1225 North Lansing, Tulsa, Oklahoma, represented the Tulsa City/County Library. Ms. Stead noted the existing sign is already digital with a capacity for three line messages. She asked who authorized the sign. Mr. Larson replied that he had a City of Tulsa permit for the sign (Exhibit A-2).

Comments and Questions:

Ms. Stead stated the two plans provided to the Board showed the existing sign and the proposed sign, but they do not show it as it is currently placed (Exhibit A-1). The existing sign is less than 40 ft. either way from the intersection and it should be 50 ft. Mr. White stated that the City permit was issued without any direction from this Board. The protest period is ten days, but no one knew the permit was issued. Mr. Larson submitted the permit to the Board (Exhibit A-2). Mr. Cuthbertson stated the permit did not indicate a digital sign, just a ground sign. Mr. Larson responded that a drawing was submitted with the permit showing the digital sign. They also submitted the affidavit of an LED business sign. Ms. Stead stated this put the Board in a difficult position; and the sign is totally inappropriate at this location. Mr. Henke asked for the hardship. Mr. Larson stated the hardship is that the City of Tulsa issued them a permit for the sign.

Interested Parties:

Chris Ford, 5518 South Lewis Avenue, Tulsa, Oklahoma, 74105, stated he owns the house across the street. He added this is one of the most dangerous corners in the city; and there have been numerous accidents there. He mentioned the heavy traffic in the area. He considered this a commercial sign in a residential area and inappropriate for a library three blocks away.

Gail Morris, 400 Civic Center, Tulsa, Oklahoma, 74103, Director of Capital Projects and Finance for the Tulsa City/County Library system. She stated they have these signs at six other applications and have not received complaints. Ms. Stead asked if they came through the Board of Adjustment or did they need to. She replied they did not need to go to the Board. Ms. Stead asked if they were on residential properties, to which she replied some of them are and mentioned the one at 4th Street and Denver. Mr. Cuthbertson stated the one at 4th and Denver came to the Board. Ms. Morris stated there have not been any accidents attributed to that sign nor complaints from any neighbors except for this sign. She offered to make any adjustments required by the Board.

Applicant's Rebuttal:

Mr. Larson stated that he was not issued a letter of deficiency by the City of Tulsa. They issued the permit for this 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 **DENY** 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 library in the R district (Section 402.B.4), finding that the heavy traffic, pedestrian traffic, proximity to an R district, and the location of the sign near 51st and Hudson are detrimental to the area, on the following described property:

W795 E875 S1475 N1525 NW LESS BEG 50S & 80W NEC NW TH S29.94
NWLY CRV LF 47.06 E29.94 POB SEC 34 19 13, City of Tulsa, Tulsa County,
State of Oklahoma

NEW APPLICATIONS

Case No. 20955

Action Requested:

Variance of the parking requirement to permit an adult entertainment establishment in an existing building in the CH district from 38 spaces to 0 (Section 1212a.D); a Special Exception to permit an adult entertainment establishment within 150 ft. of an R district (Section 701); and a Verification of the spacing requirement for an Adult Entertainment Establishment of 300 ft. from another Adult Entertainment

Establishment, church, school, and park and 50 ft. from an R district (Section 1212a.C.3), located: 1336 East 6th Street.

Presentation:

Krystal Davis, 1336 East 6th Street, Tulsa, Oklahoma, stated they are opening a music/entertainment venue for patrons 21 years of age and older. She reminded the Board they received a brief history of their business at 1st and Detroit. She stated the lot-line boundaries do not allow any vehicular access to the open yard behind the building. She stated the proposed adult entertainment establishment meets the spacing requirements and that it would not be a disruptive use to nearby residential areas.

Comments and Questions:

Ms. Stead noted the staff report states they have 2,706 sq. ft. She questioned about the size of the lot as shown on the plan. Ms. Davis explained they are land-locked by other properties and do not have public access. Mr. White asked about the exterior stairway. Ms. Davis stated it is on the west side of the building to a second floor, which is vacant, but they have only leased the first floor. Mr. Cuthbertson offered clarification of the variance of parking spaces from 38 to 0, that the adult entertainment establishment would require 36 spaces, which would limit the use of the second floor to storage only. Ms. Stead asked if they plan to do any renovations inside or outside. Ms. Davis replied that they do not. Mr. Stephens verified they are applying to the ABLE Commission for a bar permit.

Interested Parties:

Dave Strader, 535 South Quebec, Tulsa, Oklahoma, 74112, mentioned there are efforts in process to establish form-based codes. That will eliminate variances for parking spaces. He expressed support of the application.

Theron Warlick, 175 East 2nd Street, Tulsa, Oklahoma, 74136, stated he works in the City of Tulsa Planning Department and is the Planner for the Pearl District. He mentioned that in 2006, they adopted a new comprehensive plan for the district discouraging more off-street parking areas. He stated the goals of the plan promote density and mixed uses.

K. J. Rahhal, 4363 East 72nd Street, Tulsa, Oklahoma, 74136, was in support of the application and shared some history of the property as well as his hopes for an optimistic future. He offered the use of his parking lot on 6th Street property.

Shelby Navarro, 418 South Peoria, One Architecture, Tulsa, Oklahoma, 74120, stated he has some properties near the subject property. He is working to make them fit the goals of the district. The goals include promoting pedestrian traffic, and providing local businesses convenient to the neighborhood. He stated the community is working toward preserving the history by returning to the former uses of existing buildings.

City Councilor Eric Gomez, 175 East 2nd Street, Tulsa, Oklahoma, stated his support, considering it to meet the vision for redevelopment in Tulsa. He urged the Board not to limit the use of the second floor, which would inhibit the full use of the building. He mentioned the low traffic count for 6th Street, and thought on-street parking would play a key role in redevelopment of the area.

Three letters of support were sent to the Board (Exhibit B-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 Variance of the parking requirement to permit an adult entertainment establishment in an existing building in the CH district from 38 spaces to 0 (Section 1212a.D); a Special Exception to permit an adult entertainment establishment within 150 ft. of an R district (Section 701); and **ACCEPT** a Verification of the spacing requirement for an Adult Entertainment Establishment of 300 ft. from another Adult Entertainment Establishment, church, school, and park and 50 ft. from an R district (Section 1212a.C.3), with a condition on the special exception and variance: approval for a period not to exceed two years; finding the hardship that the Pearl District is finalizing the form-based plan for the area, in which case the code as currently applicable will not apply; finding basically there is nothing but on-street parking available and the lot is actually land-locked from public access for parking; it would be an unnecessary hardship to require the parking spaces as dictated by the code, 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; 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 on the verification of spacing, based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another adult entertainment establishment or other conflicting use be established prior to the expansion of this adult entertainment establishment, on the following described property:

E37.4 N15 OF LT 6 E37.4 OF LT 7 E37.4 OF LT 8 BLK10, FACTORY ADDN,
City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20956**Action Requested:**

Special Exception to permit a 150 ft. communications tower (Use Unit 4) in the AG district (Section 301); and a Special Exception to reduce the setback to 30 ft. for a communications tower from an adjoining lot line of a agriculturally zoned lot to the east (Section 1204.C.3.g.1) to permit a communications tower in the AG district, located: 5749 East 131st Street.

Presentation:

Troy Williams, with CRB Cricket Communications, LLC, 1717 South Boulder Avenue, Suite 301, Tulsa, Oklahoma, 74119, presented the proposed 150 ft. monopole. The location is at the end of East 131st Street South, which is dirt and gravel at the river. There are no towers within a mile of this location. They first sought to collocate. The lease area is about 75 ft. with existing access from East 131st Street South. This property and the one to the east are zoned AG, with industrial use for mining on the east property. Some of the fill is stored on the subject property. This project is approved by the FAA. The tower can handle three carriers with flush-mount antennas. He stated it would be landscaped per code. There are some large trees to the south and north. Parking within the compound is available. The plan is for a six-foot chain link fence with three strands of barbed wire at the top. The closest structure is 800 ft. to the north. The topography is flat. The utility cabinets on the compound are plastic, weatherproof construction, the color is sandstone, and is on a platform. He provided a site plan, letter from the RF Engineer, and other exhibits (Exhibits C-1, C-2, and C-3).

Interested Parties:

Chip Ard, 1323 East 71st Street, Tulsa, Oklahoma, 74136, represented the property owner to the east of the subject property. They are no longer mining on the property. All that is left is a 10 to 20 ft. deep hole. They have some plans for a pond and residential properties. The property to the north is in negotiations for single-family residential development; and property to the south and east has single-family residential development on-going. He stated the property east of Sheridan and north of 131st Street is already developed as single-family. His clients are opposed to the tower, especially opposed to the location next to their property line, which is within 30 feet. He indicated the tower could not provide much more coverage than the existing coverage.

Applicant's Rebuttal:

Mr. Williams responded that they meet the setbacks residential areas. They want to meet the needs for the existing neighborhood and in Jenks. The location they chose is because of the flood plain. Ms. Stead asked about the need to elevate the base. Mr. Williams replied that the tower foundation does not have to be raised but the equipment is raised on a platform to three feet, or one foot above flood stage.

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 150 ft. communications tower (Use Unit 4) in the AG district (Section 301); and a Special Exception to reduce the setback to 30 ft. for a communications tower from an adjoining lot line of an agriculturally zoned lot to the east (Section 1204.C.3.g.1) to permit a communications tower in the AG district; finding it will be in compliance with Section 1204 and its accessory definitions of the tower requirements, finding it meets the required factors listed in the code; it has capability of collocating three carriers on the 150 ft. tower; with a 6 ft. chain link fence with three strands of barbed wire at the top around the tower and accessory equipment, and will comply with the landscaping requirements, per plan as shown on page 10.9 of the agenda packet; 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, on the following described property:

GOV LT 8 LESS BEG 608.91W NEC THEREOF TH S650 W50.77 NW APPROX
200 NW APPROX 320 NW396 E TO POB SEC3 17 13, City of Tulsa, Tulsa
County, State of Oklahoma

Case No. 20957

Action Requested:

Variance of the required side yard from 15 ft. to 11 ft. 2 in. to permit a new porch addition in an RE district (Section 403), located: 2834 South Utica Avenue East.

Mr. White abstained from Case No. 20957.

Presentation:

Alan Madewell, 5314 South Yale, Tulsa, Oklahoma, represented the owners, Steve and Karen Mitchell. They propose to extend an open porch into the side yard setback. He submitted exhibits including a plan with explanation (Exhibits D-1 through D-4). The neighbors are in support of the application. He described the unique shape of the rear yard, so the porch is not parallel with the property line. The property backs up to the Philbrook Museum property.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-1 (Stephens, Henke, Stead, Tidwell "aye"; no "nays"; White "abstained"; no "absences") to **APPROVE** a Variance of the required side yard from 15 ft. to 11 ft. 2 in. to permit a new porch addition in an RE district (Section 403), in granting this variance, the Board found that with the

non-conforming lot of only 140 ft. in width, tapering to 105 ft. at the rear property line, the addition will encroach into the side yard by 3 ft. 10 in. and this is per plan, as shown on page 11.6 with the explanation on 11.7; finding 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, on the following described property:

LT 16, BLK 1, ROCKBRIDGE PARK, City of Tulsa, Tulsa County, State of Oklahoma

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Mr. Tidwell out at 3:10 p.m.

Case No. 18981-A

Action Requested:

Amendment to a previously approved site plan to permit an expansion of an existing church in the RM-1 district, located: 2828 South 129th East Avenue.

Presentation:

Danny Hall, 1602 South 161st East Avenue, Tulsa, Oklahoma, 74108, stated he is the contractor for this project. They proposed to build a family life center, as an addition to an existing building (Exhibit E-1). They have 129 parking spaces. The property is about ten feet from the flood plain boundary on the west. The building will be about 450 ft. from the rear property line.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Stead verified this would be a one-story structure. It was discussed that this building is located far away from any R district.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (White, Stephens, Henke, Stead, "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** an Amendment to a previously approved site plan to permit an expansion of an existing church in the RM-1 district, per plan as shown on page 13.6 of the agenda packet, for a one-story 120 ft. by 85 ft. building, if there is any lighting involved it shall be shielded down and away from residential properties; finding the amended site plan will be in harmony with the spirit and intent of the original special exception, and will not be

injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

LT 1 LESS BEG NEC TH W29.92 CRV RT 47.05 N29.92 POB BLK 1,
COVENTRY, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

Case No. 20959

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: 9999 South Mingo Road.

Presentation:

Bill Haddock, 6450 South Lewis, Tulsa, Oklahoma, represented Mark Fairchild and Tommy Williams. They proposed to build a liquor store on the subject property. He stated there are no businesses within the 300 ft. radius that would make this application invalid. This is the first business in the developing shopping center.

Interested Parties:

There were no interested parties.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Stephens, Henke, Stead, "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **ACCEPT** the 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), 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 established prior to this liquor store, on the following described property:

Lot 1, Block 1, PLAZA DEL SOL, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

Case No. 20960

Action Requested:

Variance to permit access to an accessory parking space through another parking space (Section 1301.F) - to permit stacked parking in a multi-family townhouse development, located: 1408 South Cheyenne Avenue West.

Presentation:

Ryan Strode, 6434 South 28th West Avenue, Tulsa, Oklahoma, 74132, represented Kevin Stevens. He responded to Ms. Stead regarding the reason for

stacked parking. Mr. Strode explained that the demographic to which they sell the condominiums are most usually single people without families. The units are 1,900 sq. ft. (Exhibit F-1).

Comments and Questions:

The Board sought input from staff or legal regarding a hardship. Mr. Cuthbertson stated this is different than a traditional multi-family development. The intent of the code is to prevent the general public from blocking access to publicly accessible and required parking spaces. These are privately assigned parking spaces. The only access that could be blocked is the individual owner blocking him/herself from their own parking spaces.

Interested Parties:

There were no interested parties.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Stephens, Henke, Stead, "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Variance to permit access to an accessory parking space through another parking space (Section 1301.F) to permit stacked parking in a multi-family townhouse development, per the revised plan exhibit submitted today (Exhibit F-1), finding the variance is in essence in compliance with the current code, in that the individual units owned will be designated as those to use the two spaces for each unit, the Board has found, 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:

N30 LT 17 & ALL LTS 18 THRU 21 BLK 2, CARLTON PLACE, City of Tulsa,
Tulsa County, State of Oklahoma

Case No. 20961

Action Requested:

Special Exception to permit University and accessory uses (Use Unit 5) in the RM-2 and RS-3 district (Section 401); a Special Exception to permit required parking on a lot other than the one containing the principal use (Section 1301.D); a Variance of the maximum building height permitted in the R district from 35 ft. to 50 ft. (Section 403); and a Variance of the maximum permitted Floor Area Ratio for a Special Exception use in the R district from .5 (Section 404.F.1) all to permit

additions to the Tulsa University campus, located: West of the Northwest corner of South Gary Place and East 5th Place.

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, Oklahoma, stated this application is in accordance with the Tulsa University Master Plan, approved by the Planning Commission and the City Council in 2006. They gave an expanded notice to include properties on the other side of Harvard. This application provides for two new engineering buildings enlarging the engineering school. Mr. Reynolds submitted several exhibits to the Board (Exhibits G-1 through G-5). They still have 1,000 more parking spaces than the 4,000 required spaces for the whole campus, not including the Reynolds Center and Skelly Stadium, which is more than 26% of the requirement by the code. He called the Board's attention to Exhibit B, the list of reasons for hardship. He noted the unique dilemma posed by a university in the R district. He identified that there are no residential neighborhoods nearby the site for this application.

Interested Parties:

There were no interested parties who wished to speak.

The Board recognized the similarities between this application and recent University of Tulsa applications before the Board.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stephens, Henke, Stead, "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Special Exception to permit University and accessory uses (Use Unit 5) in the RM-2 and RS-3 district (Section 401); a Special Exception to permit required parking on a lot other than the one containing the principal use (Section 1301.D); a Variance of the maximum building height permitted in the R district from 35 ft. to 50 ft. (Section 403); and a Variance of the maximum permitted Floor Area Ratio for a Special Exception use in the R district from .5 (Section 404.F.1) all to permit additions to the Tulsa University campus, per Exhibits B and C, and Mr. Reynolds' letter dated August 5, 2009, 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; and in granting the variance, 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:

PART OF BLOCKS 7 AND 8, COLLEGE ADDITION TO THE CITY OF TULSA,
TULSA COUNTY, OKLAHOMA, MORE PARTICULARLY DESCRIBED AS

FOLLOWS: THE SOUTH 220 FEET OF SAID BLOCK 7, AND THE EAST 100 FEET OF THE SOUTH 220 FEET OF SAID BLOCK 8, AND THE SOUTHERNMOST 220 FEET OF VACATED SOUTH GARY AVENUE LYING NORTH OF VACATED EAST 5TH PLACE.

Case No. 20951

Action Requested:

Request for refund. Mr. Cuthbertson explained this application was for a variance that was later determined unnecessary, as it is in a PUD, and the Planning Commission could address the height adjustment without Board of Adjustment approval. Staff recommended a full refund of \$426.00.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stephens, Henke, Stead, "aye"; no "nays"; no "abstentions"; Tidwell "absent") to **APPROVE** a Refund of \$426.00.

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

Date approved: 8/25/09



Chair