

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 873
Tuesday, September 23, 2003, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Vice Chair
Turnbo
Perkins
White, Chair

**MEMBERS
ABSENT**

Stephens

**STAFF
PRESENT**

Beach
Butler

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Monday, September 22, 2003, at 8:32 a.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

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

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

REQUEST TO CONTINUE AND CASES WITHDRAWN

Case No. 19672

Action Requested:

Special Exception under Section 851 of the Zoning Code to permit a private school offering a compulsory school curriculum in an existing building. SECTION 851. PRINCIPAL USES PERMITTED IN THE SCIENTIFIC RESEARCH DISTRICT – Use Unit 5, located: 4343 S. 118th E. Ave.

Presentation:

Mr. Beach informed the Board that the applicant has withdrawn this application.

Board Action:

No action was required.

Case No. 19668

Action Requested:

Special Exception to permit an office/warehouse in a CS district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 15, located: 12565 E. 21st St.

Presentation:

Mr. Beach informed the Board that the applicant, Battle Creek Mini-Storage, has requested a continuance to correct the legal description.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** Case No. 19668 to the meeting of October 14, 2003, regarding the following described property:

Part of Lot 1, Block 1, Stacey Lynn Third Annex, City of Tulsa, Tulsa County, State of Oklahoma, more particularly described as follows: Beg. at the NE/c of said Lot 1; thence S 114.81'; thence N 89°47'00" W 160'; thence N 114.20' to a point on the N line of said Lot 1; thence E along said N line 160' to the POB.

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Case No. 19666

Action Requested:

Request to Amend a previously approved site plan (BOA 11843) to permit temporary classrooms. Use Unit 5, located: 5150 E. 101st St.

Presentation:

Mr. Beach informed the Board that the applicant, Gayle Pottle has requested a continuance.

John Moody, 1924 S. Utica, Ste. 700, for the applicant, stated they have met with some of the home owners and agreed to relocate the temporary building. They want to meet with the property owners on the other side that would be affected by the new building.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** Case No. 19666 to the meeting of October 14, 2003, regarding the following described property:

Lot 1, Block 1, Life Christian Center, City of Tulsa, Tulsa County, State of Oklahoma.

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MINUTES

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** the Minutes of September 9, 2003 (No. 872).

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NEW APPLICATIONS

Case No. 19669

Action Requested:

Special Exception for a proposed sports complex, basketball, soccer, tennis, walking, jogging and bicycle paths, baseball, softball, and other outdoor recreational activities including three picnic shelters, restrooms, to be used in connection with community activities of Jewish Federation of Tulsa. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; and a Variance for parking on adjacent property to meet parking requirements. SECTION 1301.D. GENERAL REQUIREMENTS, located: 2021 E. 71st St. S.

Presentation:

Louis Levy, 5314 S. Yale, stated he represented the Jewish Federation of Tulsa. It was found that this portion of the property was not part of the PUD 307 or 307a. It does not have access to a street, so they propose to use access from the rest of the property to 71st Street. They plan for the existing 39 - 40 parking spaces to be used for the retirement center and sports complex at different times of the week and month. Currently those parking spaces are mostly unused. He stated that the third picnic shelter and everything else that exists there to be approved. A site plan was provided (Exhibit A-1).

Comments and Questions:

Mr. White asked about the parking spaces. Mr. Levy responded that they are immediately adjacent to the sports complex as is the retirement center. Mr. Dunham asked Mr. Levy if there would be any problem not having lights at the ball fields. Mr. Levy stated that no evening events are planned and no lighting was planned. Mr. White asked if there would be any problem if the Board made a condition for a tie-agreement between the five and twenty acres.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Special Exception** for a proposed sports complex, basketball, soccer, tennis, walking, jogging and bicycle paths, baseball, softball, and other outdoor recreational activities including three picnic shelters, restrooms, to be used in connection with community activities of Jewish Federation of Tulsa; and a Special Exception for parking on adjacent property to meet parking requirements, per plan, with conditions: there be no evening softball or soccer events and no lighting provided; and for a tie-agreement between the adjacent property to the south and the subject tract, on the following described property:

A tract of land that is part of Lot 2, Block 2, Blocks 2 & 3 of Southern Cross Addition, being described as follows, to wit: Beg. at a point on the most Sly line of said Block 2, said point being 611' Wly of the SW/c of Block 1 of Southern Cross Addition; thence Wly along said Sly line for 644.98' to the most Sly SW/c of Block 2; thence NWly along a deflection angle to the right 65°44'05" and along a Wly line of Block 2 for 88.99' to a corner of Block 2; thence NWly along a deflection angle to the right of 2°58'13" and along a Wly line of Block 2 for 37.07' to a corner of Block 2; thence NEly along a deflection angle to the right of 77°29'36" and along a Wly line of Block 2 for 767.60' to a point of curve; thence NEly along a Wly line of Block 2 and along a curve to the left, with a central angle of 01°12'04" and a radius of 1281.28', for 26.86' to a point of tangency; thence Sly and perpendicular to the most Sly line of said Block 2 for 200.88'; thence SEly along a deflection angle to the left of 78°41'30" for 35.69'; thence Sly along a deflection angle to the right of 78°41'30" for 350' to the POB of said tract of land, AND the E/2 SW SE, Section 6, T-18-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19670

Action Requested:

Variance of the required 300' distance from another Use Unit 12a business to 175'. SECTION 1212a.C. USE UNIT 12a. ADULT ENTERTAINMENT ESTABLISHMENTS, Use Conditions – Use Unit 12a, located: 2126 S. Garnett.

Presentation:

Luis A. Gutierrez, 2126 S. Garnett Rd., proposed to run an existing pool hall. There is a club that is open Fridays and Saturdays within 300', but his business would be open seven days per week.

Comments and Questions:

Ms. Turnbo noted there was no nearby residential district.

Interested Parties:

There were no interested parties present who wished to speak.

Jerry Ledford, Jr., 8209 E. 63rd Pl., Tulsa Engineering and Planning, clarified that the parking lot is only being added to lots three, four and five; and proposing the extension like on lots six, seven and eight.

Minister Dean Bullock, 784 E. Queen St., stated she is the President of the Dunbar Neighborhood Association. She agreed that the library needs the extra parking spaces, and they supported the waiver of the screening requirement.

Board Action:

On Motion of Dunham, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, "aye"; no "nays"; no "abstentions"; Stephens "absent") to APPROVE a Special Exception to allow Use Unit 5 (library) in an RS-3 district for library parking; a Variance to allow two 40' light poles; a Variance of required setback from a public street from 50' to 24' from centerline along North Hartford Avenue; a Variance of required setback from a public street from 50' to 25' from centerline along East Queen Street; and a Special Exception to waive the screening requirement along Lots 2 and 3 and the property line on Lot 9, per plan, finding the additional parking is needed; finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; and finding it does not adjoin any residential property so there is no need for the screening, on the following described property:

The W 5' of Lot 2, and all of Lots 3 - 5, Block 8, Roosevelt Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19673

Action Requested:

Variance of required rear yard from 25' to 20' in an RS-1 district. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located: 6447 S. Louisville.

Presentation:

Stephen J. Olsen, 324 E. 3rd St., stated he represented Mr. and Mrs. Jones, as their architect. He informed the Board that about twenty years ago they added a separate artist studio, with the approval of the variance requested today. The house burned down and they are rebuilding. A site plan was provided (Exhibit C-1).

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On Motion of Dunham, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a ***Variance*** of

required rear yard from 25' to 20' in an RS-1 district, per plan, finding this relief granted in 1984 would allow reconstruction with only minor modifications; and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

Lot 3, Block 2, Southern Hills 2nd, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19674

Action Requested:

Special Exception to permit within an 80 acre tract in the IH and AG zoning districts the mining, quarrying and extraction of stone, sand and gravel, including processing, crushing, washing, sale and loading of crushed rock, sand and gravel for utilization off the premises. SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT and SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 24, located: E. 46th St. N. ½ mile E of N. Garnett Rd.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, stated he represented the property owner at Greenhill Farms. He submitted an aerial photograph and other applicant's exhibits (Exhibit H-1 and H-2). He pointed out the surrounding properties, showing this area is the major rock supply in northeastern Oklahoma. He mentioned concerns of the close proximity of the Spavinaw flow lines, showing their location to the Board. They intend to observe the previous 400' setback for blasting operations. He stated they will also obtain the necessary government permits and approvals, including mining, dust control, and seismic monitoring.

Interested Parties:

Clay Edwards, 707 S. Houston, stated he is a Deputy Director in the Public Works Department, in charge of the Environmental Operation Division. They are responsible for the operation and maintenance of the Spavinaw flow lines. He informed the Board there is a 500' buffer zone between blasting operations and underground water and sewer lines. He asked that if the application is approved, the 500' buffer would be recognized as required by the Department of Mines. He also pointed out that along 46th St. N., there is a 24" potable water line. He indicated this line would have the same buffer requirement. He asked that Public Works would receive copies of the blasting report to include seismographic reports. He added that the Public Works Department needs to review the blasting plans to assure the Spavinaw flow lines are protected.

Comments and Questions:

Mr. White noted that distances on both the Spavinaw line and the City of Tulsa line are considerably less than the 500'. He asked if any problems have developed with either of those lines. Mr. Edwards replied that he was not aware of any.

David Patrick, Tulsa City Councilor, District 3, pointed out the IM District on the southwest corner. The people in charge of developing the industrial area have no objection to the mining moving into closer proximity.

Applicant's Rebuttal:

Mr. Norman informed the Board there are other forms of quarrying than blasting. He stated that he was not aware of the 24" water line and it would have a major affect on the use of explosives in the southern area of the property. He saw no problem with giving Public Works copies of their reports as they requested.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Special Exception** to permit within an 80 acre tract in the IH and AG zoning districts the mining, quarrying and extraction of stone, sand and gravel, including processing, crushing, washing, sale and loading of crushed rock, sand and gravel for utilization off the premises, to include all conditions in applicant's Exhibit A: 1.) The quarry shall be operated in accord with the following: a) The Oklahoma Department of Mines, Non-Coal Mining Rules and Regulations and permits thereunder; b) The Oklahoma Department of Environmental Quality Rules and Regulations and permits thereunder; c) The federal Mining Safety and Health Act (MSHA) which establishes safety regulations for quarry operations; d) All applicable ordinances and regulation of the City of Tulsa and the City-County Health Department; 2.) The quarry walls shall be setback a minimum distance from the property boundaries as follows: a) 50' from the northern right-of-way line of East 46th Street North; b) 400' from the centerline of the southernmost City of Tulsa Spavinaw water flow line; c) 10' from the west property line; d) 0' from the east property line; 3.) No flyrock from the quarry shall be permitted; the conditions in Title 460:10-31-8.Chapter 10 of the Department of Mines Non-Commercial Rules and Regulations as follows:

460:10-31-8. Blasting requirements

- (a) All blasting shall be conducted between sunrise and sunset.
 - (1) The Department may specify more restrictive time periods, based upon public requests or other relevant information, according to the need to adequately protect the public from adverse noise.
 - (2) Blasting may, however, be conducted between sunset and sunrise if:
 - (A) A blast that has been prepared during the afternoon must be delayed due to the occurrence of an unavoidable hazardous condition and cannot be delayed until the next day because a potential safety hazard could result that cannot be adequately mitigated;
- (b) Warning and all-clear signals of different character from the point of the blast shall be given. Persons within the permit area blasting site shall be notified of the meaning of the signals through the methods specified in Section 460:10- 31-7.

(c) Access to an area possibly subject to flyrock from blasting shall be regulated to protect the public and livestock. Access to the area shall be controlled to prevent the presence of livestock or unauthorized personnel during blasting and until an authorized representative of the operator has reasonably determined:

(1) That no unusual circumstances, such as imminent slides or undetonated charges, exist; and

(2) That access to and travel in or through the area can be safely resumed.

(d) Except where lesser distances are approved by the Department, based upon a pre-blasting survey, seismic investigation, or other appropriate investigation, blasting shall not be conducted within:

(1) 300 feet of any building used as a dwelling, school, church, hospital, or nursing facility; or

(2) 500 feet of facilities including, but not limited to, disposal wells, petroleum or gas-storage facilities, municipal water-storage facilities, fluid transmission pipelines, gas or oil-collection lines, or water and sewerage lines.

(3) Any mining operation actively mining on the effective date of these regulations which conducts blasting activities closer than the above distances is exempt from the provisions of (d) (1) and (d) (2) of this Section with regard to the structures or facilities to which these blasting operations take place.

(e) Flyrock shall not be cast from the permitted area.

(f) Blasting shall be conducted to prevent injury to persons, damage to public or private property outside the permit area, adverse impacts to any underground mine, and change in the course, channel, or availability of surface water outside the permit area.

(g) In all blasting operations, except as otherwise authorized in this Section, the maximum peak particle velocity shall not exceed 1 inch per second at the location of any dwelling, public building, school, church, or commercial or institutional building.

(h) If blasting is conducted to prevent adverse impacts on any underground mine and changes in the course, channel, or availability of ground or surface water outside the permit area, then the maximum peak particle velocity limitation shall not apply at the following locations:

(1) At structures owned by the operator and not leased to another party; and

(2) At structures owned by the operator and leased to another party, if a written waiver by the lessee is submitted to the Department prior to blasting.

(i) An equation for determining the maximum weight of explosives that can be detonated within any 8-millisecond period is in (j) of this Section. If the blasting is conducted in accordance with this equation, the peak particle velocity is deemed to be within the 1-inch-per-second limit.

(j) The maximum weight of explosives to be detonated within any 8-millisecond period may be determined by the formula $W=(d/60)^2$ where W = the maximum weight of explosives, in pounds, that can be detonated in any 8-millisecond period, and D = the distance, in feet, from the blast to the nearest dwelling, school, church, or commercial or institutional building. For distances between 300 and 5,000 feet, using ANFO or the equivalent solution of the equation results in the following maximum weights: (left blank);

no blasting within 500' of public water/sewer lines; and to provide copies of Department of Mines reports to the City of Tulsa Public Works Department, on the following described property:

W/2 of SE/4, Section 8, T-20-N, R-14-E, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19675

Action Requested:

Variance of the required side yard setback from 5' to 0.98'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located: 8006 E. 27th Pl.

Presentation:

John Tracy, 2703 S. 80th E. Ave., asked for a variance on a house he built over the side yard. Mr. White pointed out that the driveway was encroaching on the neighbor's property. Mr. Beach asked if there was a building permit issued. Mr. Tracy replied they had a building permit.

Comments and Questions:

Ms. Turnbo noted this was a self-imposed hardship. Mr. Dunham instructed the applicant regarding options to correct this problem, including seeking a lot split.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Turnbo**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, "aye"; no "nays"; no "abstentions"; Stephens "absent") to **DENY** a **Variance** of the required side yard setback from 5' to 0.98', finding the hardship is self-imposed, on the following described property:

Lot 11, Block 1, Tracy Park II, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19676

Action Requested:

Special Exception to allow Use Unit 17, Automotive and Allied Activities, in a CS zoned district – 4 individual units in shopping center. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located: 1416 N. Harvard.

Presentation:

Guadalupe Vernell, 924 N. Victor Ave. represented **Jose Bustos**, 1402 N. Harvard Ave., Ste. A, as his interpreter. Ms. Vernell informed the Board there are eight units in the shopping center, from 1408 to 1418. Photographs and a summary of facts were provided (Exhibits D-1 and D-2).

Comments and Questions:

Ms. Turnbo asked for the days and hours of operation. Ms. Vernell replied Monday through Sunday from 9:00 a.m. to 8:00 p.m. They would be doing general auto

mechanics, and some auto sales. They do not paint autos but they do sand them. Mr. Dunham informed the applicant that they cannot display autos or merchandise for sale outside within 300' of residential property. Ms. Turnbo mentioned the limit of 30 days for auto storage.

Interested Parties:

Richard Ganders, 1825 S. Columbia, stated he just came to clarify which units the applicant was using.

David Patrick, City Councilor, District 3, stated this is an old strip center. He reminded them that auto repair business fluctuates depending on the services. He cautioned them that the only room for storage of autos is in the front. Mr. Patrick wanted to be sure the business stays in compliance and does not become a salvage lot.

Applicant’s Rebuttal:

Ms. Vernell assured the Board the applicant understands and is willing to comply. She stated that Mr. Bustos owns the whole shopping center.

Mr. Boulden added that he is in favor of a pole fence of two to three feet in height only.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Special Exception** to allow Use Unit 17, Automotive and Allied Activities, in a CS zoned district – 8 individual units in shopping center, with conditions: all repairs to be done inside the buildings and no repairs on the parking lot; no inoperative vehicles to be stored on the premises for more than 30 days; the property to be kept in a neat and orderly manor with a nice exposure to the street; no fencing to be erected in front of the property other than a pipe fence of no more than two to three feet in height; no painting of vehicles; and no merchandise or vehicles be displayed for sale on the parking lot; the days and hours of operation Monday through Sunday, 9:00 a.m. to 8:00 p.m., finding 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:

Beg. 456.50' S and 40.00' W of NE/c NE NE, thence S 205.00' W 145.00' N 205.00' E 145.00', POB Section 32, T-20-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19677

Action Requested:

Variance to allow accessory buildings in a total of 859.6 square feet. SECTION 402.B.1.d. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use

Conditions; and a Variance of the allowable coverage of rear yard to 33.6%. SECTION 210.B.5. YARDS, Permitted Obstructions in Required Yards, located: 1727 S. Gary Ave.

Presentation:

Elizabeth Jones, 1727 S. Gary Ave., stated she and her husband live on this property. They proposed to build a small one-story out-building behind the existing garage. They want to use it for storage, potting shed and additional bathroom facilities. A site plan was submitted (Exhibit E-1). They are trying to preserve the historical structure. She described the need for more storage; the desire to keep the garden space; and keep the original appearance of the property in keeping with the neighborhood.

Comments and Questions:

Mr. White asked if they considered adding on to the garage. Ms. Jones responded that it was not feasible because of the old construction of the existing garage. She submitted photographs and other exhibits (Exhibit E-2 and E-3). Ms. Perkins asked if there would be any commercial use of the building. Ms. Jones replied there would not be any commercial.

Interested Parties:

Bill Kaylor, 1723 S. Gary, expressed his concern regarding a full bath in the new structure.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Variance** to allow accessory buildings in a total of 859.6 square feet; and a **Variance** of the allowable coverage of rear yard to 33.6%, per plan, with condition: that the structure never be used for rental or commercial activity, finding the lots are small and additional storage space are many times necessary; and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

Lot 11, Block 4, Florence Park Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19678

Action Requested:

Variance to permit a carport in the front yard in an RS-3 district. SECTION 402.B.1.b. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions, located: 4148 N. Frankfort.

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OTHER BUSINESS

Case No. 19627

Action Requested:

Special Exception to permit a community group home in an RS-3 district; Special Exception to modify screening requirement; a Variance from minimum lot size, frontage and building setback required by Sections 404.F.2,3 & 4; and a Parking Variance from 5 spaces to 4 spaces.

Presentation:

Mr. Beach stated the applicant determined they would not be able to use the subject property. The staff recommended a refund of \$511.00.

Board Action:

On **Motion of Perkins**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Refund as recommended by the staff, regarding application on the following described property:

W 5.00' Lot 5 and all Lot 6, Block 6, Woodland View V, City of Tulsa, Tulsa County, State of Oklahoma.

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Election of Officers:

On **Motion of Perkins**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, "aye"; no "nays"; no "abstentions"; Stephens "absent") to keep the existing slate of officers.

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There being no further business, the meeting was adjourned at 2:54 p.m.

Date approved:_____

Chair