

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 928
Tuesday, February 28, 2006, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Chair
Henke, Secretary
Stead
Stephens
Tidwell

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Alberty
Butler
Cuthbertson

**OTHERS
PRESENT**

Ackermann, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Friday, February 24, 2006, at 9:08 a.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

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

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

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20204

Action Requested:

Modification of a previously approved site plan to add a dog park, located: 2901 East 56th Street South.

Presentation:

Mr. Cuthbertson announced this application was withdrawn.

Board Action:

No action necessary.

N 984.5 OF E 210 W 1/2 SW NE & E 1/2 SW NE SEC 32-19-13, City of Tulsa,
Tulsa County, State of Oklahoma

Case No. 20218

Action Requested:

Special Exception to permit a 5 ft. reduction of the required front yard (Section 403), located: 2105 West Xyler Street. A refund was also requested.

Presentation:

Mr. Cuthbertson informed the Board the applicant withdrew this case and requested a partial refund.

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (Dunham, Henke, Stead, Stephens, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a refund of \$250.00 to the applicant, per staff recommendation.

LT 1, BLK 1, ROUNDTREE VILLAGE, City of Tulsa, OSAGE County, State of Oklahoma

MINUTES

On **MOTION** of **Stead**, the Board voted 5-0-0 (Dunham, Henke, Stead, Stephens, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of February 14, 2006 (No. 927).

UNFINISHED BUSINESS

Case No. 20191

Action Requested:

Reconsideration of a Special Exception to permit a fence in the front yard to exceed the maximum of 4 ft to 6 ft in an RS-1 District, located: 3035 East 49th Street South.

Presentation:

Ingrid Esberger, 3035 East 49th Street South, stated that initially they began construction of the fence without permission, for which, they apologized. She reiterated explanations from the previous hearing regarding support from the neighbors; quality and attractiveness of the fence; other neighbors with fences over 4' high; and noise, privacy and safety issues. She submitted a map identifying sites of crime in the recent past (Exhibit A-1).

Chris Milliron, 3035 Eat 49th Street South, pointed out that no residential properties were screened from the commercial property parking lot.

Interested Parties:

Cynthia Kragthorpe, 4510 South Birmingham Place, noted the multiple types of fences in the neighborhood greater than four feet in height. She stated it was the most attractive fence. She was in support of it for safety and keeping their dogs within the yard.

Board Action:

On **Motion of Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a fence in the front yard to exceed the maximum of 4 ft. to 6 ft. in an RS-1 District, 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:

LT 9 & E 15 LT 10 BLK 1, VILLA GROVE SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20193

Action Requested:

Amendment of the previously approved Mohawk Park master plan and a Special Exception to permit a public park to expand Mohawk Park, located: 5701 East 36th Street North.

Presentation:

Greg Warren, 1710 West Charles Page Boulevard, stated that Mohawk Park was purchased in 1923. There are 2,800 acres with 99% of it in the flood plain. He listed Oxley Nature Center, a playground with water play park, golf course and the Tulsa Zoo, which currently exist. They proposed to add a soccer complex at 56th Street North and Highway 75 that is out of the flood plain with good ingress and egress, which they plan to purchase in the future. They are planning for a BMX track, skate-park and four fishing docks in Lake Yahola. They are planning for running events, trails, equestrian riding and a disc golf course. Mr. Warren added this is a culmination of two years of planning and that the plan was recently approved by the Park Board. He identified a tract that is owned by the airport that could not be included because of FAA regulations. A site plan, preliminary master plan and color map were provided (Exhibits B-1, B-2 and B-3).

Interested Parties:

James Cobb, 11004 South Allegheny Avenue, stated he is a member and Vice-President of the Tulsa Gun Club. They do not want tracks near the gun club because they have an excellent safety history and do not want anyone to be hurt.

He informed the Board that they asked the Tulsa Police Department to evaluate the gun club for safety precautions.

Steve Schuller, 1100 ONEOK Plaza, 100 West 5th Street, represented the owner of the property adjacent to the planned soccer fields. He identified the portion of the proposed plan that his client wants removed as he is not interested in selling.

Ms. Stead was not comfortable with the changes in the legal description. She did not want the Board to take a final action until the changes were made.

Kevin Anderson, 2510 East 26th Street, represented the owner of the property to the east of Mr. Hull and pointed out the property on the map for the Board. The owner does not object to the plan.

Comments and Questions:

Mr. Cuthbertson stated that staff could present a modified legal description and map to the Board prior to the next meeting before approving the minutes for that case.

Board Action:

On **Motion of Stevens**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Amendment of the previously approved Mohawk Park master plan and a Special Exception to permit a public park to expand Mohawk Park, less and except the two airport parcels and the west half of the proposed soccer fields, pending the amended legal description and map from staff at the next meeting March 14, 2006, on the following described property as amended:

All Parcels owned by the City of Tulsa for Mohawk Park, more particularly described as follows: S/2 SW S OF BIRD CREEK SEC 1-20-13; W/2 LESS RR SEC 12-20-13; ALL THAT PRT IN N/2 SW SE & S/2 NW SE LYING N&W OF RR SEC 12-20-13;

S/2 NE & THAT PT E/2 NE NE & S/2 NW NE LYING S C/L BIRD CREEK 14.3 ACS SEC 11-20-13; ALL THAT PART S/2 NW LYING S OF BIRD CREEK & SW & SE SEC 11-20-13 347.75 ACS; ALL THAT PART NW SW & SW NW LYING W BIRD CREEK & ALL N/2 S/2 SW LYING SW CK S/2 S/2 SW & SE LESS PT LYING W & N CK SEC 10-20-13; SE NE & ALL S/2 SEC LESS 7.01 AC IN NW NW SW BEG 2011.3 N SWC SW TH E 386.7 N 338.0 SW 473 N TO NWC NW NW SW E660 S660 W660 N POB & 4.5 AC OF S/2 SE NW & TR BEG 91.22E SWC SW SW NE TH E 67.56 NW 177.21 NW APR 50 SW APR 40 SE 55 NE 40 SE 134.46 POB SEC 9-20-13 357.684 ACS; N/2 NE SE LESS 2.65 ACS IN 2 TRACTS SEC 8-20-13 17.35 AC; PRT E/2 SE BEG 435S NEC SE TH S 2205.0 W 1320 N 1755 NELY POB LESS 4.15 AC FOR HWY R/W MORE FULLY DESC IN BK 3920 PG 2141 IN OFFICE OF TULSA COUNTY CLERK SEC 8-20-13 55.85 AC

NW NW & NW SW NW LYING N AT&SF R/W LESS W 16.5 THEREOF FOR RD SEC 13-20-13 36.25 ACS; TRI TR LYING N&W AT AT&SF RY R/W IN NW NE NW SEC 13-20-13 3.66AC; ALL THAT PRT NE LYING N RR R/W & NW & THAT PRT SW LYING N RR R/W & W/2 SE LYING N RR R/W SEC 14-20-13 381.480 ACS; N/2 & NE SW & E/2 NW SE SW & NE SW SE SW & E/2 SE SW N OF RY & SE N OF RY SEC 15-20-13; E/2 SE LYING N&E HWY R/W & N/2 NW SE & NE NE SW & NW LESS BEG SWC THEREOF TH E190.3 N620 SWLY TO PT ON WL NW S570 POB & NE LESS ALL THAT PRT SE SE NE LYING S&W HWY R/W & LESS S/2 SW SE NE SEC 16-20-13 321.84ACS; E/2 NE LESS 3.32AC BEG SECR NE N570 SWLY 324.4 S435 E295 POB & LESS 13.48AC OF E/2 NE FOR HWY SEC 17-20-13; AND NE LESS BEG 1254.10 W SECR NE TH W300 N 1527.80 NWLY 306.6 NW 725.10 N25 WLY 404.7 N 70 TO PT ON N LINE E 1400 S90 W428.9 S 484.3 SE 153 S 800 SW153 S965.40 POB & LESS BEG 154.07 W SECR NE TH W1100.03 TO E L HWY ROW N 965.40 NE 153 N 800.63 NW 153 N 484.30 E 100 S 1165.55 E 1000 S 1377.72 POB SEC 8-20-13 97.465 AC; City of Tulsa, Tulsa County, State of Oklahoma

The Board recognized **Gene Hendricks**, 4215 East 56th Street North, who stated he operates a landfill near the proposed soccer fields that has been there since 1970. He reminded the Board there are a lot of trucks that come through this area to the landfill.

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NEW APPLICATIONS

Case No. 20202

Action Requested:

Special Exception to allow a manufactured home in an IM zoned district for residence and security purposes. Section 901, located: 14113 East Apache Street North.

Presentation:

Gordon Flake, 14113 East Apache, proposed to place a mobile home on the subject property. A site plan was provided (Exhibit H-1).

Comments and Questions:

Ms. Stead asked if there is 100' of frontage, to which Mr. Flake indicated there is.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Henke**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special

exception to allow a manufactured home in an IM zoned district for residence and security purposes. Section 901, per plan, 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:

LT 1 LESS W180.00 S484 BLK 1, SAM'S ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20203

Action Requested:

Verification of the spacing requirement for a family day care home - Section 601 (that no other family day care home is located on a lot within 300 ft. of the subject property), located: 1724 North Indianapolis Avenue East.

Presentation:

Juan Miller, 1724 North Indianapolis Avenue, came to present her case.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Verification of the spacing requirement for a family day care home - Section 601 (that no other family day care home is located on a lot within 300 ft. of the subject property), as submitted, on the following described property:

LT-5-BL5, LOUISVILLE HGTS ADDN B1-8, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20205

Action Requested:

Appeal the decision of the Administrative Official to issue a Zoning Clearance Permit (#2099) to allow a bicycle ramp as an accessory structure, located: 1503 East 43rd Place South.

Presentation:

Phil Marshall, 4319 South Quincy Place, represented himself as a neighbor, and owners of lots he specified on a map. They found the bicycle ramp on the subject property to be an inappropriate use of the land in a residential neighborhood. They indicated it is unusual and not a customary accessory use in the area. They also noted the applicant is not the owner of the property. They consider it a nuisance,

injurious and detrimental to the neighborhood. They requested the Board to uphold the appeal to not issue a zoning clearance on Permit #2099; that the Board require the ramp to be removed; and that Mr. Lane and his friends cease and desist from using the ramp from this day forward.

Comments and Questions:

Mr. Dunham asked if any of the interested parties were in support of the ramp, and no one responded affirmatively. He then asked to hear from the Zoning Officer.

Interested Parties:

Dustin Wright, 111 South Greenwood, with Zoning Plans Review, stated that based on the zoning code, he found the ramp to be the same as swimming pools, tennis courts and play ground equipment.

Comments and Questions:

Ms. Stead commented that it is an eyesore. Mr. Stevens considered it an inappropriate use for the neighborhood. All five Board members opposed to the ramp.

Board Action:

On **Motion of Henke**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **UPHOLD** an Appeal of the decision of the Administrative Official to issue a Zoning Clearance Permit (#2099) to allow a bicycle ramp as an accessory structure, on the following described property:

LT 30 BLK 1, MAX CAMPBELL 3RD ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20206

Action Requested:

Verification of the spacing requirement for a bar in the CBD (Use Unit 12a) located: 325 East 2nd Street South.

Presentation:

Michael Sager, 328 East 1st Street, stated he is the landlord for the applicant. He provided a certificate of spacing with a map (Exhibit C-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Henke**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a

Verification of the spacing requirement for a bar in the CBD (Use Unit 12a), on the following described property:

E50 LT 3 BLK 86, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20207

Action Requested:

Verification of spacing requirements for a bar/nightclub - public entrance doors located at least 50 feet from R district and use located a minimum 300 feet from public park, school, or church Section 1212a.C.3 & 5 1601 & 1603, located: 222 North Main Street.

Presentation:

Steve Schuller, 1100 ONEOK Plaza, 100 West 5th Street, stated he has verified there are no churches, parks or schools within the 300' radius. His map of the 300' radius was in the agenda packet.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Verification of spacing requirements for a bar/nightclub - public entrance doors located at least 50 feet from R district and use located a minimum 300 feet from public park, school, or church Section 1212a.C.3 & 5 1601 & 1603, as submitted this day, on the following described property:

S50 LT 1, N70 LT 2 BLK 29, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20208

Action Requested:

Special Exception to allow Use Unit 17 - to permit sales of used cars in a CS zoned district and a Variance of the 300 foot distance from an R district to display merchandise on the property, located: 523 South Sheridan Road East.

Presentation:

Richard Howard, 2431 East 61st Street, Suite 306, proposed a used car lot on the subject property. He responded to questions in the staff report. There is a curb cut for access to the property on the southwest corner of the lot and one on the north side.

Comments and Questions:

Mr. Dunham asked him to address the 50' distance form an R district versus the 300' distance required in the zoning code. Ms. Stead asked about the placement of a security fence the applicant referred to in the application.

Mr. Howard indicated they planned to limit the number of vehicles to five to eight for sale on the lot at a time. The one-story frame structure would serve as the office. On the east of the property is an existing wood privacy fence, which he stated they would be willing to replace if requested by the Board. He added the security fencing would be about three feet high. They plan to use the lot for used car sales and parking limousines overnight. Mr. Ackermann pointed out that limousine services is a Use Unit 17, which is within the same use category as car sales and car repair. Mr. Howard stated they proposed to use the existing ambient lighting. He added there would be no maintenance, body work or mechanical work of any kind operated on the premises. They planned to put down asphalt for an all-weather surface and had no plans for landscaping. He stated the hardship is that it is a property that needs to be used and this is a use that would fit.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Henke**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a Special Exception to allow Use Unit 17 - to permit sales of used cars in a CS zoned district; and a Variance of the 300 foot distance from an R district to display merchandise on the property, due to a lack of hardship, on the following described property:

LT 11 BLK 12, SHERIDAN HILLS, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20209

Action Requested:

Variance of the maximum permitted size of an accessory building to permit a 2400 sq. ft. accessory building, located: 8255 South Yukon Avenue.

Presentation:

Bill Ryan, introduced his wife also, **Renee Ryan**, 8255 South Yukon, stated they have a two and one-half acre tract, with low density zoning. They are surrounded by houses on one to four acres. There is AG property on the south. He stated they proposed to build a 40' x 60' storage building/garage. He needs to store lawn equipment, ATV's with trailers and other such items. He pointed out there are other accessory buildings of similar size on nearby properties (Exhibit D-1). Mr. Ryan planned to build it with the same materials as his home. He described it as

one story, rock and stone, same overhead doors for garage, concrete approach, and the same type of exterior lighting.

Interested Parties:

John Campbell, stated he lives directly to the west across Yukon and was in support of the application.

Earl Pregler, 11354 East Independence, stated he owns Ivis, Inc., and owns 80 acres to the south. He plans to develop the eighty acres in the future.

Board Action:

On **Motion** of **Henke**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the maximum permitted size of an accessory building to permit a 2400 sq. ft. accessory building, with conditions: a one-story structure, with the same materials as the house, finding the hardship is the large size of the land; extraordinary and exceptional condition does not apply generally to other properties in same use district; 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:

S495.4 LESS N142.6 LT 12, ROSS HOMESITE SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20210

Action Requested:

Variance of the setback for a sign from the centerline of an abutting street (Section 1221.C.5), located: 1350 South Boulder Avenue.

Presentation:

James Adair, 7508 East 77th Street, stated the property line is 30' from the centerline of the street and the required setback is 40'. The existing building is closer to the center of the street than the setback, at 36'. They proposed to place a 28 square foot sign in the planter area to identify an occupant of the building. A site plan (Exhibit E-1) was provided.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the setback for a sign from the centerline of an abutting street (Section 1221.C.5), per plan, finding the street conditions and circumstances peculiar to the

land structure or building involved, that literal enforcement of the terms of the code would result in an unnecessary hardship, and that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district; 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:

LTS 1 THRU 6 BLK 6 FRIEND ADDN & LTS 1 THRU 6 BLK4 & VAC ALLEY LYING BETWEEN BLKS 6 & BLK 4, FRIEND ADDN, HORNER ADDN AMD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20211

Action Requested:

Modification of a previously approved site plan for a planned car wash facility, located: North of NE/c of 91st and Yale Avenue.

Presentation:

Tim Terrell, 6737 South 85th East Avenue, with Tulsa Engineering and Planning Associates, stated the site plan was approved in July 2004. The access is the same and they are adding a retail component of a little less than 5,200 square feet attached to the car wash. A site plan was provided (Exhibit F-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Henke**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Modification of a previously approved site plan for a planned car wash facility, per plan submitted today, on the following described property:

LT 2 BLK 1, 9100 YALE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20216

Action Requested:

Special Exception to permit a 5 ft. reduction of the required front yard (Section 403), located: 2503 East 26th Street South.

Presentation:

Bill Holloway, 3223 East 31st Street, Suite 105, proposed to make an addition to a single-family residence per the plan he submitted (Exhibit G-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Henke**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a 5 ft. reduction of the required front yard (Section 403), per plan, 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:

LT 7 BLK 2, EASTWOOD ADDN RESUB L3 J P HARTER'S SUB, City of Tulsa, Tulsa County, State of Oklahoma

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OTHER BUSINESS

Mr. Cuthbertson brought up the topic of discussion of policies regarding multiple variances. At the previous meeting Charles Norman presented a case with multiple variances. The Board denied the case based on policy established in 1989 that suggested anytime an applicant brings multiple variances to the Board it should be directed toward a PUD development. The applicant asked for an explanation of multiple in this general policy. Mr. Cuthbertson referred to the agenda packet with a copy of minutes from the 1989 meeting when the Board established the policy. Ms. Stead indicated the applicant did not understand it was not the number of variances but that the Comprehensive Plan for Hillcrest, including Parkside, also called for some restrictions and direction to a PUD. Mr. Dunham mentioned numerous other cases for hospital campuses where multiple variances were approved. He suggested the proper order of business in Mr. Norman's case would have been to tie the lots together first. Mr. Dunham would be in favor of a simpler process than a PUD for an expansion like Mr. Norman's case because it facilitates construction. Mr. Henke pointed out that Mr. Norman's case was a major expansion. He added that this Board is for small zoning exceptions and variances. Mr. Cuthbertson explained that staff considers the desired outcome, whether it is to seek specific elements of relief to allow a development or to design a site. If it is to design a site, the application needs to go through a more comprehensive review process such as a PUD. Mr. Stevens commented if the applicant has a deadline, the BOA is a faster process. Mr. Dunham suggested they specify that to apply to the Board the expansion should be for 10% or less, or three variances or less. He added that some standards or guidelines would be helpful for future cases. Mr. Ackermann commented that not only floor area expansion, but the use is an important factor. It was discussed that a specific number of variances, to constitute 'multiple', could not be established because each case is unique.

Board Action:

The Board did not take any action.

There being no further business, the meeting was adjourned at 2:50 p.m.

Date approved: 3/14/06

Monte S. ...
Chair