

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 929
Tuesday, March 14, 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, Vice Chair
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 Thursday, March 9, 2006, at 9:55 p.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. 20176

Action Requested:

Variance of the required rear yard from 40 ft to 38 ft, variance of the average lot width from 200 ft to 183 ft; variance of required 15 ft side yard (tract 2) to permit a lot split (Section 303), located: 10717 South Delaware Avenue East.

Presentation:

Mr. Cuthbertson informed the Board that the applicant, Richard Stunkard, withdrew the application.

Board Action:

No Board action was needed.

Case No. 20217

Action Requested:

Special Exceptions: to permit off-street parking in an RM-2 district; to remove the screening requirements along E. 5th Pl, E. 6th St., and S. Norfolk; and to permit required parking on a lot not containing the principal use; Variance of the parking lot setback from the centerline of abutting streets in an R district, located: South side of East 5th Place between South Norfolk and South Peoria Avenue.

Presentation:

Mr. Cuthbertson stated the staff requested a continuance to the meeting on April 11, 2006 to correct legal description omissions.

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 **CONTINUE** Case No. 20217 to the meeting on April 11, 2006.

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OTHER BUSINESS

Case No. 20193

Action Requested:

Present the amended legal description and map for the previously approved application.

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** the amended legal description and map provided.

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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 28, 2006 (No. 928).

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UNFINISHED BUSINESS

Case No. 20196

Action Requested:

Variance of parking requirements (Section 1212.D), located: 3306 South Peoria Avenue.

Presentation:

James Andrews, 5908 South Birmingham Avenue, requested a parking variance for an addition to their restaurant that currently occupies 3308 and 3310 South Peoria. They plan to restrict the hours of operation for the new space. They would open the addition for late night dining with live music. The regular dining room would be open from 5:00 p.m. to 10:00 p.m., and they would close it and open the new space at 3306 from 10:00 p.m. to 2:00 a.m., Wednesday through Saturday.

Comments and Questions:

The Board considered the difference in parking requirements for a restaurant versus a club. Mr. Stephens asked if Mr. Andrews contacted Bank of Oklahoma about parking as he suggested at the last meeting. Mr. Andrews had not checked on the BOK parking. Mr. Andrews stated that they have an agreement with the owners of the Crow Creek Office Building to lease spaces. He stated they are trying to minimize the impact while still expanding their business. Mr. Andrews informed the Board that he held a meeting for the Brookside Neighborhood and other interested parties to allow them to see the facility and to provide information about the application.

Interested Parties:

Dan Pentecost, 1218 East 33rd Street, stated works in the Crow Creek Office Park. He and his family and associates appreciate the Brookside walk-around area. He complained of the trash, raw food and poor maintenance of another existing restaurant. Mr. Pentecost informed the Board that delivery trucks block off access to 33rd Street, which causes a safety hazard. He submitted photographs (Exhibit A-1).

Herb Beattie, 3474 South Zunis Avenue, Co-President of the Brookside Neighborhood Association, stated they consider the restaurant to be a good one. They voted to oppose this application though because of the parking problems. Ms. Stead asked if the applicant obtained a lease for parking spaces across the street, would it influence their Board decision. Mr. Beattie thought it might draw their support, he could not say for sure.

Pam Searcy, 1416 East 34th Street, stated support of the application and the Brookside night life. She felt the positive things about the area outweigh the negative.

Applicant's Rebuttal:

Mr. Andrews submitted photographs (Exhibit A-2). He understood that the people are opposed to the common problems in Brookside not necessarily his restaurant. They are looking for solutions for the parking and delivery truck issues.

The Board and staff discussed the need for more specific parking spaces and determined to give the applicant another opportunity to obtain a lease for parking.

Board Action:

On **Motion of Henke**, to **CONTINUE** Case No 20196 to the meeting on March 28, 2006 was made, Ms. Stead asked for a condition: that approval of the application be contingent on obtaining a lease for parking. Mr. Henke withdrew his motion.

On **MOTION of Henke**, to **APPROVE** a Variance of parking requirements (Section 1212.D), contingent on the applicant returning with a letter of intent to lease approximately 20 parking spaces; and with the condition to limit the hours of operation to Wednesday through Saturday, 10:00 p.m. to 2:00 a.m.; and that the restaurant dining room will close at 10:00 p.m. finding the 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, 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 was made and seconded.

Ms. Stead recognized one of the owners to speak.

Mike Murphy, stated he is one of the owners of Crow Creek Office Park. He added that his tenants pay substantial rent and are complaining about poor access for the clients that go to their offices. Ms. Stead responded that is not in the Board's purview, it is an enforcement issue.

Mr. Alberty recommended a continuation of the approval until the next meeting and make a motion dependent on the terms of the lease at that time. Mr. Henke withdrew his motion.

On **MOTION of Henke**, the Board voted 5-0-0 (Dunham, Henke, Stead, Stephens, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No 20196 to the meeting on March 28, 2006, on the following described property:

W115 LT 1 & PRT VAC ST BEG NWC LT 1 TH N20 E TO PT SW TO PT W115
POB BLK 5, BROOKSIDE ADDN AMD, City of Tulsa, Tulsa County, State of
Oklahoma

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Case No. 20205

Action Requested:

Request for reconsideration of 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, located: 1503 East 43rd Place South.

Presentation:

Doug Lane, 1503 East 43rd Place South, stated he did not know about the first hearing of this case. He leases the subject property. He stated they do not use the ramp late at night, or make a lot of noise or have late night visitors. He asked for a hearing because he was not informed of the last one.

Comments and Questions:

Mr. Tidwell asked if he had new evidence to present, and Mr. Dunham replied he did not.

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 **DENY** a Request for reconsideration of 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

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NEW APPLICATIONS

Case No. 20212

Action Requested:

Special Exception to permit a manufactured home in an RS-3 district and an Extension of the 1 year time limit to lifetime use, located: 1910 East 28th Street North.

Presentation:

Norma Jean Stevens, 1910 East 28th Street, stated she was never told she needed to renew the time limitation on the mobile home.

Interested Parties:

Mr. Dunham referred to a letter from the Chamberlain Neighborhood Association in opposition to the application. Ms. Stevens responded that she was not familiar with the association and she never heard from them regarding this issue.

Nicole Moore, 5311 South Sandusky, expressed support of the application. She stated she would prefer to have the mobile home there than an empty lot. She stated she has two empty lots that she plans to develop.

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 manufactured home in an RS-3 district and an Extension of the 1 year time limit for a period of five years from this day, March 14, 2006, 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 10 BLK 2, VICTORY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20214

Action Requested:

Special Exception to permit a used automobile sales lot (Use Unit 17) in a CS district, located: 1102 South 145th East Avenue.

Mr. Cuthbertson called to the Board's attention that the assessor's office indicated the total property under the owner as shown on the site map. The legal description was provided for the portion of the subject property involved in this case only.

Presentation:

Michael Flynn, 1502 South Boulder, represented Mr. and Mrs. Flynn, whose trust owns the property. The intent was to improve this property. He indicated the opposition is probably only regarding the previous tenants. He believes the lighting problems, screening fence, and hard surface have been corrected and they are open to restrictions from the Board. He stated that Mr. Mautino told him the neighborhood would not have a problem with a nice used car lot.

Interested Parties:

Jennifer Weaver, 14343 East 12th Street, stated her property is to the south of the subject property. She did not think the owners have consideration for the neighborhood from the history of the property. She stated the owner tied his fence repeatedly to an elderly neighbor's fence causing damage to it. She mentioned a safety issue from the tenant parking cars on 145th Street; dilapidated screening

fence; illegal signage; and no shielding on lighting. They have dealt with these sort of complaints regarding the subject property for more than six years.

Wayne Bohanon, 10617 East 1st Street, stated he is the President of Wagon Wheel Neighborhood Association, Inc. He indicated they have seen a history of new tenants agreeing to restrictions on the property but not maintaining the property. They have found that it is difficult for Neighborhood Inspections to enforce the restrictions on these types of business. They consider the best solution is to deny the application.

Councilor Jim Mautino, 14628 East 12th Street, reviewed the history of the property from beginning as a private storage of a motor home for the owner to a towing service, wrecker service, and a chop shop. Three truckloads of old tires were dumped on the property and Neighborhood Inspections put a stop to that. He reminded the Board that the neighborhood is working hard to improve the area. He submitted photographs (Exhibit B-1). The area has been rezoned from CS to RS.

John Wilhelm, 209 North Magnolia Court, Broken Arrow, Oklahoma, stated he owns commercial property that faces Mr. Flynn's property and house on 11th Street. He spoke in support of the application.

Applicant's Rebuttal:

Mr. Flynn responded to the comments of interested parties. His clients allow the billboard on the property, which is leased and permitted in the correct way. The gas riser is not a problem being near the billboard. The new tenant came from a major franchiser and does not deal with junk cars. They pay contractors for repairs and cleaning.

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 used automobile sales lot (Use Unit 17) in a CS district, with conditions for: no outside storage or display of vehicles or merchandise in addition to the existing conditions already placed on this land, 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:

S 150 FT of Lot 1, Block 1 and the E 31.4 FT of the S 150 FT of Lot 2, Block 1, MAUDLIN RESUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20215

Action Requested:

Verification of spacing requirements for Adult Entertainment Establishment in a CBD District, located: 412 East 2nd Street South.

Presentation:

Eric Talley, 4967 South Lawton, was present to verify the spacing requirements.

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 Verification of spacing requirements for Adult Entertainment Establishment in a CBD District, as presented this day, on the following described property:

E40 LT 8 LESS BEG SECR TH W40 N.19 ELY40 S.23 POBBLK 109, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20219

Action Requested:

Variance of parking requirements from 118 to 86 spaces to permit a bar (Section 1212a.D) , located: 6125-G South Sheridan Road.

Presentation:

R. W. Byers, 6716 South Oswego, submitted photographs (Exhibit C-1) of the parking lot to show the availability of parking spaces on the lot. He also submitted a petition of support (Exhibit C-2).

Comments and Questions:

Mr. Dunham asked for the hours of operation. Mr. Byers replied that they would be 5:00 p.m. to 2:00 a.m., Monday through Friday and from 12:00 noon to 2:00 a.m. on Saturday and Sunday. Ms. Stead asked for a short statement of their hardship. He responded that they plan to lease 3,125 square feet, which would require 42 parking spaces. He stated there are 86 spaces in use. Mr. Dunham stated the literal interpretation of the code would be the hardship.

Allen Smith, 216 East 13th Street, Sand Springs, Oklahoma, stated he is the owner of the proposed Plan 9 Bar. He stated the hardship is that the current tenants require 76 spaces.

Interested Parties:

Dr. Teresa Wilkinson, 6565 South 65th Place, Suite E, stated she has had an office there for twelve years. The office is open 9:00 a.m. to 9:00 p.m. She expressed concern for her employees and clients because of the history of violent crimes from the nearby bar. She stated that parking is already an issue for the hair salon and her clinic.

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

She stated she has seven patients in treatment at all times, seven therapists and three other office personnel. She mentioned that they serve handicapped patients and if other customers use the parking in front of her office it would make a hardship for them.

Mark McKinney, for Seville Apartments, 6241 East 62nd Street, stated the parking requirements are too minimal. He suggested this business needs a better location.

Mr. Dunham returned at 3:08 p.m.

David Swazee, 6839 East 105th Street, stated he is one of the owners of the shopping center. He thought the hours of the bar would not conflict with the existing tenants. They kicked out a lessee when the business caused problems. He added that about 80% of the tenants are in favor of this application.

Donnie Gendren, 6942 South Joplin, stated he owns South Tulsa Enterprises, across the street. He and **Robert Zelm**, with Silver Flame, also described the parking problems in this area.

Applicant's Rebuttal:

Mr. Byers referred to his photographs and assured the Board there is not a parking problem.

Board Action:

On **Motion** of **Stead**, the Board voted 4-1-0 (Dunham, Henke Stephens, Stead, "aye"; Tidwell "nay"; no "abstentions"; no "absences") to **APPROVE** a Variance of parking requirements from 104 to 86 spaces, based on current occupancy, to permit a bar (Section 1212a.D), subject to hours of operation being Monday through Friday, 5:00 p.m. to 2:00 a.m., Saturday and Sunday 12:00 noon to 2:00 a.m.; regular clean-up of the lot around the property and regular patrolling around the property, finding the 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 & 2 LESS W10 LT 2 & LESS N10 E5 LT 1 FOR STBLK 1, MSM CENTER
RESUB L2 B1 GRAVATT-TABOR CTR, City of Tulsa, Tulsa County, State of
Oklahoma

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Case No. 20220

Action Requested:

Verification of spacing requirements for an Outdoor Advertising Sign, located: 5736
East 41st Street.

Presentation:

Michael Joyce, 3800 First Place Tower, 15 East 5th Street, represented Whistler
Outdoor Advertising, Inc. The Board was provided the verification of spacing
requirements (Exhibit D-1).

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
Verification of spacing requirements for an Outdoor Advertising Sign, on the
following described property:

BEG 50 S NE COR E 1/2 W 1/2 NW NE TH S 113.2 SW 200 NW 273.2 E 125 S
25 E 75 TO BEG SEC 27-19-13, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20221

Action Requested:

Verification of spacing requirements for an Outdoor Advertising Sign, located: 9940
South Riverside.

Presentation:

Michael Joyce, 3800 First Place Tower, 15 East 5th Street, represented Whistler
Outdoor Advertising, Inc. The Board was provided the verification of spacing
requirements (Exhibit E-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 spacing requirements for an Outdoor Advertising Sign, on the following described property:

LT 1 BLK 1, KINGS LANDING, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20222

Action Requested:

Special Exception to permit Uses which utilize tents, canopies or open air activities (tent sales) in a CS district, located: 5050 South Lewis.

Presentation:

Kelly Jones, 7002 East 100th Place, proposed to have tent sales for a seasonal garden center at this location.

Mr. Stevens out at 3:32 p.m.

Mr. Jones stated a part of their request is, as the original, for a period of five years. The hours of operation would be Monday through Saturday 9:00 a.m. to 8:00 p.m., and Sundays 10:00 a.m. to 6:00 p.m.

Comments and Questions:

Ms. Stead mentioned the old shrubbery on the east property line that limited the visibility to access. Mr. Jones replied they planned to remove the overgrown landscaping.

Mr. Stevens returned at 3:35 p.m.

Mr. Jones responded to Ms. Stead that they plan to open this center April 1st and close by July 4th. He added that they would adhere to the 179 day annual limit. They might include a fall opening.

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 Special Exception to permit Uses which utilize tents, canopies or open air activities (tent sales) in a CS district, for a period of no more than 179 days per calendar year for a period of five years, 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 SECR SE TH N240 W220 S240 W220 POB LESS E45 S40 W175 FOR ST
SEC 30 19 13 .80AC, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20223

Action Requested:

Special Exception to permit Use Unit 23, Warehousing and Wholesaling, in a CG district, located: 11219 East Pine Street.

Presentation:

Dan Petron, 4101 West Freeport Street, Broken Arrow, Oklahoma, stated he is the District Manager for Fastenal, the owner of the subject property. They sell wholesale industrial supplies. The required 25 parking spaces are far more than they would ever need.

Mr. Cuthbertson clarified the parking requirements related to the requested Use Units. He stated that the applicant's site plan is adequate for the request.

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 Special Exception to permit Use Unit 23, Warehousing and Wholesaling, in a CG 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 2 BLK 1, WOLF POINT BUSINESS CENTER RSB PT B2 WOLF POINT IND
PKWY, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Henke out at 3:40 p.m.

OTHER BUSINESS

Mr. Cuthbertson asked for discussion regarding community standards for sidewalk requirements along all public streets. Staff brought it to the Board for their support of the new subdivision regulations recently passed by the Planning Commission.

Mr. Henke returned at 3:42 p.m.

The staff sought the Board to enforce this measurement by requiring it on all site plans that come before the Board. Ms. Stead asked if this would include a requirement for re-developments to build new sidewalks. Mr. Cuthbertson replied sidewalks would be required on all public streets for re-developments.

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There being no further business, the meeting was adjourned at 3:45 p.m.

Date approved: March 28, 2006 .


Chair