

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1256
Tuesday, August 11, 2020, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Van De Wiele, Chair Bond, Vice Chair Ross, Secretary Radney Shelton		Wilkerson Chapman Sparger	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on August 6, 2020, at 12:39 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

The City Board of Adjustment was held in person, by videoconferencing and teleconferencing via **GoToMeeting**, an online meeting and web conferencing tool. Board of Adjustment members and members of the public were allowed to attend and participate in the Board of Adjustment's meeting via videoconferencing and teleconferencing by joining from a computer, tablet or smartphone using the following link:

<https://global.gotomeeting.com/join/580504949>

The staff members attending remotely are as follows:

- Ms. Burlinda Radney
- Ms. Jessica Shelton, Board Member
- Mr. Marl Swiney, City Legal

The staff members attending in person are as follows:

- Mr. Stuart Van De Wiele, Chair
- Mr. Austin Bond, Vice Chair
- Ms. Briana Ross, Secretary
- Mr. Dwayne Wilkerson, Tulsa Planning Office
- Mr. Austin Chapman, Tulsa Planning Office
- Ms. Janet Sparger, Tulsa Planning Office

MINUTES

None.

UNFINISHED BUSINESS

None.

NEW APPLICATIONS

22973—John and Elaine Burkhardt

Action Requested:

Variance to reduce the 30-foot front street setback and the 15-foot side street setback in an RS-2 District to permit a swimming pool (Section 5.030, Table 5-3 & Section 90.090, Table 90-1); Special Exception to allow a fence or wall to exceed 4 feet inside the street setback (Section 45.080-A). **LOCATION:** 1128 Woodward Boulevard (**CD 4**)

Presentation:

John Burkhardt, 1128 Woodward Boulevard, Tulsa, OK; stated he has lived in the house for 34 years and has lived in Maple Ridge since 1977. The subject property is located on the northwest corner of Woodward Boulevard and 24th Place. The house was built in the 1920s and part of the original Sunset Terrace Addition which is part of Maple Ridge. The hardship for the Variance request is that there is no practical alternative to locating the pool on the property; it is a very oddly shaped lot, triangular in the layout. The widest part of the property faces Woodward Boulevard looking east and the property narrows as it goes westward. The topography slightly grades backward from front to back. The narrowing of the property is accentuated by several factors. First, there is a detached garage on the back portion of the property. The property also has a lower level, ten feet that runs along the north side of 24th Place that accentuates the narrowing of the back portion of the subject property. Thirdly, there are two old

original trees in the back and those trees are dear to him and he was told that a pool like he is proposing would risk the root system of the trees, more so than the side yard location. This is an irregular tract that has features that renders the side yard location as the only practical location. If the Variance is granted it would not cause substantial detriment to the public good nor impair purpose or intent of the City Ordinances. From what he can tell he is only seeking a little over a 7-foot setback, and on the side, he is seeking about a 4-foot setback and to him that is not substantial. Regarding the 24th Place side, the location that is being spoken about will not be any closer to 24th Place than already exists with the short stone wall that has been part of the property since it was built in the 1920s. Regarding the Woodward Boulevard side, from his impression, he is not going to be any closer to the curb or the middle of Woodward than already exists on the other side of the street, opposite his house on the east side of Woodward Boulevard; the large retaining wall that was part of the former Aaronson mansion. In addition, he is virtually certain that whatever existed with the property when it was built is not what is being discussed today because 80 feet from the center of Woodward Boulevard would put his front steps in violation of the Code. The pool and fence will come out about three or four feet where the front edge of the circular drive is in the front.

Ms. Ross asked Mr. Burkhardt if he had any drawings showing the location of the pool. Mr. Burkhardt answered affirmatively and handed drawings to Mr. Chapman.

Mr. Burkhardt stated there are six pages in the handout that he provided Mr. Chapman. Mr. Burkhardt stated that pages 101 and 102 are photographs and a rendering of the project showing the property layout.

Mr. Van De Wiele asked Mr. Burkhardt about the drawing on 102. Mr. Van De Wiele asked Mr. Chapman to display page 1.8 from the agenda packet because it is basically the same picture. Mr. Van De Wiele asked Mr. Burkhardt if a line were drawn from the pine tree to the big tree on the corner would everything that is being proposed would be inside of that line. Mr. Burkhardt answered affirmatively.

Mr. Burkhardt stated that this will be a visual enhancement to the property, and he understands it is only in the eye of the beholder. The project as completed does not come close to failing to comply with the Oklahoma visual nuisance ordinance, Title 24, Section 103A. Side yard pools are quite common in Maple Ridge and other older areas. Pages 103, 104, 105 in the exhibits he provided show other properties with side yard pools; page 103 is about a block southwest of the subject property, page 104 is about one block south, and page 105. Mr. Chapman interjected that if the exhibits are going to be referenced, he can take a picture and present them digitally, but it will take a moment, they need to be made available to anyone attending online.

Mr. Van De Wiele stated this case will be tabled until the exhibits can be made available to any viewers online.

This case was tabled at 1:18 P.M.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; on the following property:

LOT 3 BLK 10, SUNSET PARK AMD, City of Tulsa, Tulsa County, State of Oklahoma

22974—Edward Lindsey

Action Requested:

Special Exception to allow a law office in a RM-2 District (Section 5.050, Table 5-2); Variance of the minimum lot size and lot width requirement for a Special Exception use in a RM-2 District (Section 50.050, Table 5-3); Variance of the 25-foot building setback for Special Exception use from a R District in a RM-2 District (Section 5.030-B, Table Note 4); Variance of the minimum building setback from an R District for an office use in an RM-2 District (Section 40.260-B, Table 15-3 & Section 15.030-B, Table Note 5). **LOCATION:** 1612 South Denver Avenue West **(CD 4)**

Presentation:

Steve Dotson, 1634 South Boston Avenue, Tulsa, OK; stated his client is seeking to place a law firm in to an RM-2 zoned residence. The residence sits on Denver Avenue, a main thoroughfare into downtown and the property is surrounded by law firms. There is only one residential property left in the corridor that has not been converted to a legal use, music academy or multi-family use. His client, Mr. Lindsey, has been in Tulsa as an operating law for 28 years and he anticipates having three to five lawyers in the structure.

Mr. Van De Wiele asked Mr. Dotson what was going on in the property currently. Mr. Dotson stated that it is a single-family residence. Mr. Van De Wiele asked Mr. Dotson if the subject property had parking for four to six lawyers and clients. Mr. Dotson answered affirmatively; there are at least seven existing spaces and the entire rear of the property has been paved over with a six-foot screening fence. There is no driveway access to the alley. Additionally, the neighbor to the north has a cut in, if an agreement is reached with the neighbor, there could be additional three or four parking spaces, but he thinks seven spaces are more than sufficient.

Mr. Van De Wiele asked Mr. Dotson to explain where the seven spaces are located. Mr. Dotson stated the spaces are in the rear of the building; there are two spaces with the existing two-car garage, three spaces on the northwest end of the property, and there are two spaces adjacent to the structure.

Ms. Ross asked Mr. Dotson how many people would be working in the building. Mr. Dotson stated there would be three to five, and that includes staff.

Mr. Van De Wiele asked Mr. Dotson if the plans were to use the structure as it is currently built, and this is not a tear down and a rebuild. Mr. Dotson stated the structure will be used as it is, though there will be some ADA compliance construction.

Ms. Shelton asked if the neighbors to the north and to the south were operating as law firms. Mr. Dotson stated the neighbor to the south is a Dentist and the property to the north, he believes, is a residence but he has not been able to get anyone to respond and the property does appear vacant at this time. All the other properties are commercial use or multi-family use.

Ms. Radney asked what the structure is currently being used for since the back area is already fully paved. Mr. Van De Wiele stated that Mr. Dotson stated that it is currently being used as a single-family residence.

Mr. Van De Wiele asked Mr. Dotson if he was aware if the structure has ever been used as a business. Mr. Dotson does not believe that it has been, but he thinks it may have been used as a multi-family structure.

Mr. Bond asked Mr. Dotson to state his hardship for his request. Mr. Dotson stated that it is a residential property that sits on a main arterial that serves as a conduit from Riverside into downtown. The property is already surrounded by law firms and the neighborhood is evolving into commercial use as opposed to residential use.

Mr. Bond asked Mr. Dotson when the house was built. Mr. Dotson stated that house was built in 1915.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated he is surprised that no one has heard from the neighborhood, it is a fairly active neighborhood and that gives a certain level of comfort. The Board has seen the houses on Denver over the years being used with or without zoning approval in a business context.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; "nays"; no "abstentions"; none absent) to **APPROVE** the request for a

Special Exception to allow a law office in a RM-2 District (Section 5.050, Table 5-2); Variance of the minimum lot size and lot width requirement for a Special Exception use in a RM-2 District (Section 50.050, Table 5-3); Variance of the 25-foot building setback for Special Exception use from a R District in a RM-2 District (Section 5.030-B, Table Note 4); Variance of the minimum building setback from an R District for an office use in an RM-2 District (Section 40.260-B, Table 15-3 & Section 15.030-B, Table Note 5), subject to conceptual plan 2.17 of the agenda packet. The existing principal structure is to remain the same except for the ADA compliance. The Board finds the hardship to be that the structure predates the Comprehensive Zoning Code, the historic nature of the house, as well as the changing nature of the surrounding structures. The Board finds that the requested 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. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

S.25 LT 3 N.35 LT 4 BK 5, STONEBRAKER HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22973—John and Elaine Burkhardt

Action Requested:

Variance to reduce the 30-foot front street setback and the 15-foot side street setback in an RS-2 District to permit a swimming pool (Section 5.030, Table 5-3 & Section 90.090, Table 90-1); Special Exception to allow a fence or wall to exceed 4 feet inside the street setback (Section 45.080-A). **LOCATION:** 1128 Woodward Boulevard (**CD 4**)

This case was reconvened at 1:34 P.M.

Presentation:

John Burkhardt came forward and stated the last page of the exhibits he presented to the Board is not Maple Ridge, but it is Swan Lake. It is a property that sought and received a Variance in 2017. The Board approved an aggregate of 26 feet between two sides of the setback allowance, and he is seeking substantially less than that.

Mr. Van De Wiele asked Mr. Burkhardt about the fence that is depicted in exhibit 101. Mr. Burkhardt stated the fence in that picture is between 6'-0" and 6'-6" tall.

Mr. Burkhardt stated the hardship for this request is that the property is a triangularly shaped lot with a topography that gradually slopes from front to the rear making it more difficult to locate a pool anywhere else other than the side property. These limitations preceded him and are not caused by him. The Variance being sought is not substantially and relatively minimal. The Variance, if granted, will not cause substantial detriment to the public good or impair the purposes or spirit or intent of the Tulsa Zoning Code or other City Ordinances.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Bond stated that he is generally opposed to breaching a front setback or a side setback. In a normal situation, in looking at the site diagram, he thinks there is a whole lot of space in the back yard. He is sympathetic to wanting to save the trees; this area was once populated with large Elm trees and Dutch Elm destroyed a lot of those trees in the 1970s and the 1980s. This is a unique case that should not be looked to for a precedent for other forms of relief. Mr. Bond stated he is inclined to support this request.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to reduce the 30-foot front street setback and the 15-foot side street setback in an RS-2 District to permit a swimming pool (Section 5.030, Table 5-3 & Section 90.090, Table 90-1); Special Exception to allow a fence or wall to exceed 4 feet inside the street setback (Section 45.080-A), subject to conceptual plans 1.14, 1.15, 1.16 and Exhibits 1.01 and 1.02 submitted today. The fence is to be limited to 6'-6" in height. The Board finds that the requested 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. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

LOT 3 BLK 10, SUNSET PARK AMD, City of Tulsa, Tulsa County, State of Oklahoma

22975—Jim Beach

Action Requested:

Minor Special Exception to amend a previously approved site plan for a fitness facility and health club in an RD District (Section 70.120). **LOCATION:** 3030 East 91st Street South **(CD 2)**

Presentation:

Jim Beach, Wallace Engineering, 123 North Martin Luther King, Jr. Boulevard, Tulsa, OK; stated that over several decades the building has existed and has been through three previous Board of Adjustment hearings. The site plan depicted on page 3.13 shows everything that is existing and the new proposed membraned covered framed structure. That structure is near the southeast corner of the property. The structure is there to cover new or existing ball courts.

Mr. Van De Wiele asked Mr. Beach if the structure is intended to come down in the winter and go up in the spring or is it intended to be permanent? Mr. Beach deferred to the architect of the project.

Interested Parties:

Tim Boeckman, CJC Architects, 1401 South Denver Avenue, Tulsa, OK; stated the structure is intended to be permanent.

Mr. Van De Wiele asked Mr. Beckman what is the life expectancy of this type structure? Mr. Beckman stated it is designed as a permanent structure and just like any other building it has a membrane that has a long-life span. It is not a canvas membrane; it is an engineered membrane that is meant to be part of a permanent structure. The steel structure underneath the membrane is also a permanent structure with a permanent foundations.

Mr. Van De Wiele asked Mr. Beckman if there are to be a couple of new courts added. Mr. Beckman stated there will be two additional courts.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Minor Special Exception to amend a previously approved site plan for a fitness facility and health club in an RD District (Section 70.120), subject to conceptual plan 3.13 of the agenda packet. The Board finds that the requested 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; for the following property:

LT 1 LESS BEG NEC TH S70 W24 N19 TH ON CRV RT 12.57 N13 W10 N TO NL E TO POB BLK 1; PRT NW NE BEG SWC WIMBLEDON PL ADDN TH S270 E480 N270 W480 POB SEC 20 18 13 2.98ACS, WIMBLEDON PLACE, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Mr. Van De Wiele presented Ms. Brianna Ross with a Certificate of Appreciation; this is her last Board of Adjustment meeting. Mr. Van De Wiele stated that he has appreciated serving with Ms. Ross and she will be missed. Ms. Ross stated she will miss everyone.

There being no further business, the meeting adjourned at 1:55 p.m.

Date approved: _____

Chair