

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1023
Tuesday, April 27, 2010, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Henke, Chair Stead, Vice Chair Tidwell, Secretary Van De Wiele White	None	Alberty Cuthbertson Zezulka	Boulden, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, April 21, 2010, at 1:27 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of Tidwell, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** the **Minutes** of April 13, 2010 (No. 1022).

NEW APPLICATIONS

Case No. 20685-A

Action Requested:

Amendment to a condition of a previous approval for an event/community center (Use Unit 5) in the IL district to eliminate the two-year time limitation. Located at 10111East 45th Place.

Presentation:

Sam Stokely, 10111 E. 45th Place, Tulsa, Oklahoma 74146, appeared before the Board seeking the elimination of the two-year time limitation. He presented a letter from his neighbor who stated he was happy.

Comments and Questions:

Ms. Stead asked Mr. Stokely if he had any objections to the previous conditions remaining. Mr. Stokely responded that he did not.

Interested Parties:

There were no interested parties.

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** the Amendment to a condition of a previous approval for an event/ community center (Use Unit 5) in the IL district to eliminate the two-year time limitation with the same conditions: Limited to an event/community center; no outside speakers, one law enforcement officer [*editorial note "enforcement officer" shall include any sworn CLEET certified Tulsa Police or Tulsa County Sheriff's Department; in addition, to any non-sworn private security personnel who may be hired*] for every event of 50 or more cars shall be hired and provide all trash pick-up immediately following each event. The Board finds that the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

PRT TRACT IN SE NW ADJ LT 1 & PRT LT 1 BEG 176E 60N 98.73E SWC TH N443.33 SE161.76 S343.29 W127.13 POB BLK 1, IDEAL BRICK INDUSTRIAL TRACTS, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 21057

Action Requested:

Variance of the maximum permitted Floor Area Ratio (FAR) in the CS district from 50% to 75.8% (Section 703) to permit a hotel use. Located at 3418 South 79th East Avenue.

Presentation:

Andy Patel, 704 South Sweetgum Avenue, Broken Arrow, Oklahoma 74135, representing Hampton Inn Suites; the applicant requested a variance of the maximum permitted floor area ratio in the CS district from 50% to 75.8% to build an Hampton Inn Suites. The hotel would be located at I-44 and U. S. Highway 51. There are several hotels located in the area.

Comments and Questions:

Ms. Stead stated that this would be the only four-story hotel in the area; she also stated that there were two and three-story hotels in the area. Ms. Stead asked if the applicant was aware that they would need a lot-combination. Mr. Patel replied that it had already been done.

Ms. Stead asked Mr. Cuthbertson if the Board needed a copy for the record. Mr. Cuthbertson replied that the Board did not; however, a copy of the stamped declaration would be placed in the file. Mr. Cuthbertson continued to explain that the lot-combination would be required during the permitting process.

Ms. Stead commented on the large billboard located on the property; and reminded the applicant that there are billboard or signage requirements.

Ms. Stead asked if there were sidewalks along 79th. Mr. Patel responded that there are no sidewalks; however, if sidewalks were required, they would put in sidewalks.

Interested Parties:

There were no interested parties.

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** the **Variance** of the maximum permitted Floor Area Ratio (FAR) in the CS district from 50% to 75.8% (Section 703) to permit a hotel use. The Boards finds that this triangular-shaped property prevents a larger one-story footprint and that the FAR is compatible with the surrounding area, which has many hotels and other business in excess of one-story. That there are peculiar circumstances on the land involved, the literal enforcement of the terms of the Code would result in unnecessary hardship that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, subject to plan submitted 3.5.

LT 1 LESS BEG SECR TH W278.49 NWLY371.98 NW161.61NE283.88 TH ON CRV LF256.37 SE266.39 S350 POB BLK1 , LT 3 LESS BEG NWC TH E425.49 SW2.35 CRV LF 324.75S354.27 CRV RT 11.79 W25.20 SW157.90 SW80 W251 NW63.13 SW1.00 WL NW75.35 N234.56 NE427.31 NE21.52 POB BLK 1, INTERCHANGE PLACE, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 21060

Action Requested:

Variance of the maximum amount of required front yard permitted to be covered with an all-weather surface in the RS-3 district from 34% to 43% (Section 1303.D); and a Variance to decrease the required livability space in an RS-3

district from 4,000 sf. to 3,530 sf. (Section 403), located at 18410 East 46th Street.

Presentation:

Mike Parks, 4619 S. 177th East Place, Tulsa, Oklahoma 74134, the applicant is asking for a variance to allow a three-car garage. The majority of lots situated in Stonegate II range from 6,000 to 6,900 square feet and does not allow for a three-car garage, which places the applicant above the livability and front yard all-weather surface requirements. In fact, on some of the lots, even with a two-car garage, are literally just at the maximum in an RS-3 zone.

Comments and Questions:

Ms. Stead asked if the applicant was building a larger home, which would take more of the livability space. Mr. Cuthbertson explained if the driveway were reduced to 34% coverage the house would still be over the livability space requirement. Mr. Parks explained that this is the problem for this neighborhood while trying to meet the neighborhood requirements. In this particular neighborhood, there are a number of three-car garages most of them are on large lots or have received a variance.

Ms. Stead stated that when the applicant appeared before the Board all of the cul-de-sac lots were marked that were odd shaped and the square footage as being some that would possibility receive a variance should they be presented to the Board. However, the applicant is looking at 15 homes in block 2 that are on 60-foot lots. She asked if that is correct? Mr. Parks responded that it is correct; that is the issue they face with the 6,000 to 6,900 square foot lot. It is difficult even with a two-car garage in a single-family dwelling that meets the neighborhood minimum requirements just to meet the livability in the front yard.

Mr. Van De Wiele stated that it is the developer who is setting the minimum house restrictions and the size of the lots. Therefore, the hardship is self-imposed.

Ms. Stead stated that her initial problem was drainage; however, that has been satisfied by Public Works.

Mr. Henke stated that after review of the minutes from previous meetings, the features of the houses with a three-car garage set the character for the neighborhood. The developer established the size of the lots and unless it is on a cal-de-sac. Mr. Henke stated that this is a self-imposed hardship.

Mr. White stated that the neighborhood was designed as an RS-3 and the builder offered RS-2 homes on the RS-3 lots. Mr. White stated that this is a self-imposed hardship.

Mr. Parks stated it is not the builder who wants to put this home on the lot; it is the buyer. The applicant stated that they did not impose the hardship; they purchased lots and because there are three-car garages on lots that are 65' to 70' feet wide to compete

with the other builders. When a builder goes to a lot-draw, they may not draw the lots wanted.

Ms. Stead asked when the property was platted. Mr. Cuthbertson stated in 2008.

Interested Parties:

There were no interested parties.

Board Action:

On **MOTION** of **White**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **DENY** the Variance of the maximum amount of required front yard permitted to be covered with an all-weather surface in the RS-3 district from 34% to 43% (Section 1303.D); and a Variance to decrease the required livability space in an RS-3 district from 4,000 sf. to 3,530 sf. (Section 403). The Board finds that the hardship is self-imposed.

Lot 12, Block 2, STONEGATE II, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 21062

Action Requested:

Variance of the maximum floor area ratio in the CS district from 50% to 70% (Section 703); and a Variance of the parking requirement from 19 spaces (Section 1205) to permit an expansion to an existing library, located at 3333 East 32nd Place.

Presentation:

Paul Wilkening, 320 South Boston, Tulsa, Oklahoma 74103, on behalf of Tulsa City County Library, before the Board is (1) the subject tract, which is a parking lot appointed to the Library proper; (2) a strip of land to the east, and (3) a 22-foot strip of land. In addition, the properties to the southwest and the building are owned by the Tulsa City County Library system and located on parcels owned by the Tulsa City County Library. The parking lot to the north is owned by the City of Tulsa. The Library has a 99-year lease on that property from the City. Therefore, the parking does not count since the property is owned by the City of Tulsa. Tulsa City County Library is asking for a variance of the parking requirement. Currently, the requirement is one slot for 500 square feet with just the building that is on County property the parking requirement cannot be met.

Comments and Questions:

Ms. Stead asked if we had evidence that the 99-year lease was still in effect. Mr. Cuthbertson responded that he did not have any evidence for the record.

Mr. Wilkening stated that is a problem it was discussed in 1996 with Charles Norman, TCCL representative. Mr. Wilkening presented a copy of the lease; however, a couple

of the description attachments were not available. The lease is in effect until 2062. Ms. Stead stated the lease is primary to approval.

Mr. Tidwell asked if the Library used the area with 28 parking spaces. Mr. Wilkening stated that it does.

Mr. Boulden stated that by looking at the lease he had no reason to presume it would not be in effect. There is a number on the lease that appears to be a City Clerk contract number and the entire lease should be on file.

Gail Morris, 1717 W. Westmont, Broken Arrow, Oklahoma 74012. The lease was executed in 1962 and it conveyed all the properties owned by the City of Tulsa at that time, to the Tulsa City-County Library System on a 99-year lease. Therefore, it not only covered the subject property but all the property the City owned. Now, the Library is seeking a small expansion to the Library. This situation has existed since 1997 and it was accepted at that time. The Library is doing a minor expansion to the workroom, which would not change the public space that is needed for parking.

Mr. Van De Wiele asked the square footage of the workroom. Mr. Wilkening responded that it was 588 square feet.

Interested Parties:

There were no interested parties.

Board Action:

On **MOTION** of **Van De Wiele**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the maximum floor area ratio in the CS district from 50% to 70% (Section 703); and a Variance of the parking requirement from 19 spaces (Section 1205) to permit an expansion to an existing library. The Board finds that because of extraordinary or exceptional conditions or circumstances would be the leasing of the adjacent property that appears to have adequate parking. Other conditions that articulate are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, subject to conceptual plans 5.7, 5.8; a square footage of 588 square feet; and 28 parking spaces.

PRT LT 1 BEG SWC TH N130 E128 S130 W128 POB LESS E22 THEREOF FOR ST BLK 1, GRANADA ADDN RESUB L11-12 ALBERT PIKE 2ND SUB, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 21063

Action Requested:

Variance of the maximum aggregate display surface area for wall signs within a PUD from 2 sq. ft. per lineal foot of building wall to 3.5 sq. ft. per lineal foot of building wall (Section 1103.B.2.a) to permit signs on existing shopping center buildings. Located at 9999 South Mingo Road.

Presentation:

Eldon Peaster, 4877 South Braden, Tulsa, Oklahoma 74135, the applicant, is requesting an increase in signage area.

Comments and Questions:

Ms. Stead asked if the applicant brought an example of what the signs might look like. Mr. Peaster responded affirmatively.

Mr. Henke asked if the request was going from 1,337 square feet to 2,165 square feet. Mr. Cuthbertson responded that was a calculation of the aggregate display surface for the entire shopping center.

Ms. Stead asked if the 2,165 square feet also covered the small signs under the PUD so that would be a total. Ms. Stead stated that there is a problem with going over the 3 feet, which would have been allowed, had the PUD not been overlaid. Mr. Peaster stated that the northeast corner sets back 400 feet from the major arterial streets.

Mr. Van De Wiele asked if it was the areas marked three (3) on Exhibit 1. Mr. Peaster responded affirmatively. Mr. Van De Wiele asked if the signs were on the flat end of the towers facing the parking lot. Mr. Peaster responded affirmatively.

Mr. Henke asked if the TMAPC would have to agree to the Board's decision. Mr. Peaster responded affirmatively.

Mr. Alberty stated that the PUD had restricted the wall signs to 1.5 square feet; however, the PUD chapter of the Code permits two (2) square feet. If the subject property were not in a PUD it would be in CS zoning, which would allow three (3) square feet. The TMAPC would not have to agree, what is being asked for is to go before the TMAPC to exceed the two (2) square feet. The TMAPC does not have to approve any more than what was already approved. This opens the door for the applicant to proceed with a PUD amendment. This was advertised as 3.5 square feet in the aggregate and this will only apply to two locations. Mr. Peaster stated that the overall aggregate would be less than three (3) square feet.

Ms. Stead stated that since the subject property sets so far back from the major arterial streets, there is a need for a larger sign. However, being advertised at 3.5 square feet in the aggregate, with the tiering it is only three (3) in the aggregate. Mr. Peaster stated it would be less than three (3) square feet in the aggregate. Ms. Stead asked how much less. Mr. Peaster responded 19 % less.

Mr. Cuthbertson stated that three (3) square feet would allow 2,675 square feet in the aggregate and tiered relief would allow up to 2,165 square feet in the aggregate.

Mr. Alberty stated that if the Board is willing to approve what the applicant is requesting, he suggested that the Board approve the 2,165 square feet that allows the applicant to allocate. Ms. Stead asked if the 2,165 square feet includes those signs already approved by the PUD. Mr. Peaster answered it includes the 1.5 square feet in front and those would not change.

Mr. Van De Wiele stated that if the 2,165 square feet were approved, he would not want a reallocation for larger signs.

Mr. Cuthbertson requested that the applicant explain what makes the corner buildings unique from traditional shopping center corners. Mr. Peaster explained that there is very little frontage because of the pie shape; therefore, the tenant does not have much sign area and the tenant is so far from the street.

Interested Parties:

There were no interested parties.

Board Action:

On **MOTION** of **Van De Wiele**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** the **Variance** of the maximum aggregate display surface area for wall signs within a PUD from 2 sq. ft. per lineal foot of building wall to 3.5 sq. ft. per lineal foot of building wall (Section 1103.B.2.a) to permit signs on existing shopping center buildings. However, the total square footage of signage in the shopping center shall not exceed 2,165 square feet, which on an average of square footage is less than three (3) square feet per lineal foot of building wall. In addition, subject to plans 6.8 and 6.9, the Board finds that the areas of the corner shopping center lot are farthest from the major streets and on average 400 feet or more from the major streets making the need for larger signs unique to this property. The Board finds that by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan.

PRT SW SW SW BEG 660.97N & 50E SWC SW SW SW TH E APROX 567.98 TO
NEC SW SW SW S600 W229.85 N10 W APROX 138.15 N175 E30 N200 W230
N215.97 POB SEC 19 18 14, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 21064

Action Requested:

Variance of the parking requirement for a commercial development (Section 1200). Located at the NE/c of East Reading Street and North Peoria Avenue.

Presentation:

Jim Beach, 200 East Brady Street, Tulsa, Oklahoma, the applicant, explained that this project is being built in phases. The first phase is all of lot 2, which is the eastern large lot at the back of the property. There are 72 spaces contained in lot 2; however, parking spaces will be added to lots 1 and 3 out to the construction limit line to bring the total to 91 spaces for the first phase, which is short of the requirement of 110 spaces. A table in the materials presented shows all of the uses in this first phase. This property has a mixed use for a small site there is office, retail, and restaurant space all in the one building. The uses times vary throughout the day so there would never be a period when all the uses in the center are at peak parking. In addition, this development was created with an eye toward achieving a LEED certification (Leadership, Energy and Environmental Design). The system for grading includes additional open space. This is a "green project," with build up areas to help handle stormwater runoff by allowing it to soak into the ground rather than discharging into the storm sewer system. In the middle of the site is an open green space that has a stage and a small pavilion. The applicant who presented today asked for a variance for the entire property. The Planning Commission approved a minor amendment to allow shared parking among all the uses on all three (3) of the lots. Therefore, the total parking requirement for the entire project is 174 parking spaces. There will be 157 parking spaces, which is a reduction of 10%. The Gateway Market has authorized the use of 25 parking spaces for overflow; currently, they have 50 parking spaces that are not needed. The owner of the properties is willing to execute a shared parking agreement.

Comments and Questions:

Ms. Stead asked if the PUD had already been amended. Mr. Beach responded affirmatively. Ms. Stead asked as to the parking. Mr. Beach responded that it has not as to parking. There is a minor amendment that will be presented to the Planning Commission on May 4.

Ms. Stead asked who owns this property. Mr. Beach responded that Tulsa Development Authority owns it; however, Greenwood Development Corporation will own now it.

Interested Parties:

Tommy Williams, 4704 East 76th Street North, Tulsa, Oklahoma is opposed to the applicant's request because of problems in the area.

Comments and Questions:

Ms. Stead asked where he lives in relation to this project. Mr. Williams responded he lives north across Seminole Street.

Ms. Stead asked why he did not want development on the subject property. Mr. Williams responded that there are problems with surrounding stores.

Mr. Henke asked what type of problems. Mr. Williams responded robbery, theft, and waste.

Ms. Stead stated that the Board could not fix the social ills of a community. The Board can only base their decisions on the zoning code.

Applicant's Rebuttal

Mr. Beach added that when development comes into the area the population increases and crime tends to drop off.

Mr. Van De Wiele asked if the row of spaces between the lot line and the construction line are being counted twice. Mr. Beach responded no they are not.

Ms. Stead stated that the different uses and different times would allow for ample parking; however, there does not seem to be any difference. Mr. Beach responded that the main difference is between the office space on the second floor and the retail/personal service on the first floor. The angled portion in the center of the building is an entrance into a common area, which serves as an access to the upstairs offices; half of each wing of the "L"-shaped building is one-story and the middle portion is two-story, which is office space.

Mr. Van De Wiele stated that there is one common sidewalk that leads in off Peoria. Mr. Beach responded affirmatively, that the arched sidewalk there is a bus stop that brings customers in that way. Sidewalks are being provided part way along Seminole and Reading from the southeast and northeast corners of the project up to the point that the project can be entered for use of the internal sidewalks.

Ms. Stead asked if the cross-parking agreement was in place. Mr. Beach responded that it is not. However, it could be obtained easily; currently, one owner owns all the property and this portion is all that is being developed at this time.

Mr. Cuthbertson stated that the property would be broken up into three separate lots for the near future that would be commonly owned. However, the establishment of the cross-parking agreements now would ensure that it would go with the land if sold.

Mr. Boulden stated in his opinion that as long as all three lots have common ownership, the Variance could be granted. Should the property be sold, the owners could reach an agreement.

Board Action:

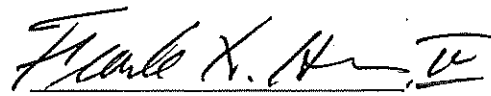
On **MOTION** of **White**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the parking requirement for a commercial development (Section 1200). The Board finds that the variance only covers approximately 10% of the total required parking for a

reduction from 174 to 157 parking spaces this would affect lots 1, 2, and 3 of the plan shown on 7.6; with the conditions that all three lots remain under a common ownership. The Board finds by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan.

N 178 LT 7 8 9 10 LESS N 20 & E 10 & W 20 STS BLK 1, S 161.7 LTS 7 8 9 10 LESS S 5 & E 10 & W 20 FOR STS BLK 1, T DICKSON ADDN, City of Tulsa, Tulsa County, State of Oklahoma.

There being no further business, the meeting adjourned at 2:20 p.m.

Date approved: 5/11/10


Chair