

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1032
Tuesday, September 14, 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 Tidwell, Secretary White, Vice Chair	Van De Wiele	Alberty Cuthbertson Sparger	Boulden, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Tuesday, August 26, 2010, at 10:26 a.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 4-0-0 (Henke, Stead, Tidwell, White, "aye"; no "nays"; no "abstentions") to **APPROVE** the **Minutes** of August 24, 2010 (No. 1031).

NEW APPLICATIONS

Case No. 21132-Orval Ty Tyson

Action Requested:

Variance of the maximum permitted size of a detached accessory building in the RS-3 district from 500 sq. ft. to 780 sq. ft. (Section 402.B.1.d); a Variance of the maximum permitted height for a detached accessory building located in the required rear yard from one (1) story in height and 10 ft. at the top plate to two (2) stories and 13 ft. at the top plate (Section 210.B.5.a); and a Variance of the setback requirement for a detached accessory building in the required rear yard

from a side property line from 3 ft. to 12 in. (Section 210.B.5.b). **Location:** 15 North Vancouver Avenue West

Presentation:

Orval Ty Tyson, 15 North Vancouver Avenue, Tulsa, OK; stated the plans have been modified. Originally there were permanent stairs to the attic area and those have been eliminated with a drop-down ladder replacing the permanent stairs thus eliminating some of the required floor space. The attic will be used for wood storage and other type of storage only. Mr. Tyson stated two of the originally requested Variances are no longer needed. Mr. Tyson withdrew the request for a Variance of the maximum floor area and the second story height.

Mr. White asked if there was going to be a restroom in the new building, and Mr. Tyson stated there would be a toilet with a deep slop sink. Mr. Tyson also informed the Board that the existing detached building behind the house will be removed upon the completion of the proposed garage and the driveway will be paved.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, White "aye"; no "nay"; no "abstentions") to **APPROVE** the maximum permitted height for a detached accessory building located in the required rear yard from 10 ft. at the top plate to 13 ft. at the top plate, Section 210.B.5.a and a Variance of the setback requirement for a detached accessory building in the required rear yard from a side property line from 3 ft. to 12 in. The Board finds that in granting these Variances this is a nonconforming lot with only 50 ft. of width and 5,000 sq. ft. total which is well below the current code requirements. The upper portion is to be attic and storage space only, not a full story. The existing detached building to the east of the principle dwelling is to be removed on completion of the garage. The Board finds the Variance to 12 in. is necessitated by the fact that this one garage was shared by two properties, that the existing slab is within 12 in. of the property line. The Board requires that asphalt or concrete be installed on all driving and parking surfaces. In granting these Variances the Board has found that these are 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, per conceptual site plan submitted September 14, 2010; for the following property:

W 100 OF LT 8 BLK 2, BUNKER HILL ADDN

Case No. 21133-Lou Reynolds

Action Requested:

Variance of the parking requirement for a mixed use commercial building to 43 parking spaces (Section 1211 - 14); and a Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3). **Location:** 10018 South Memorial Drive

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; represents the applicant Park Hill and Park Hill, LLC. Mr. Reynolds stated the property is located in a developing mixed use commercial center pursuant to a PUD. Lot 6 is located in the south end in a separate development area of the PUD; the other 5 lots are in the north end in a separate development area. Lot 5 which abuts Lot 6 is the lot owned by the applicant, and the applicant is asking for a Variance in the parking requirement and verification of proof they meet the 300 ft. spacing requirement. The code was not written with consideration for a mixed use commercial center under a PUD where the sharing of access, sharing parking, and sharing many other common facilities occur. The operating hours of the proposed liquor store will be 10:00 A.M. to 9:00 P.M. and not open on Sunday. Customers do not stay long and there are no peak hour demands. The store is uniquely located in an isolated part of the commercial corridor; it is on the west side of Memorial; there are no direct vehicular connections to adjoining residential traffic; there is shared access with the Quik Trip; there is the benefit of the cross parking easement; therefore there is no possibility of overflow traffic. This property use will not pose any detriment to the comprehensive plan.

Interested Parties:

James Collins, 7728 East 98th Place, Tulsa OK; represents the Board of Directors for the PUD that adjoins the property. Mr. Collins requested a copy of the overheads presented today. Mr. Collins stated he had no objections to this application. Mr. Reynolds stated he would provide Mr. Collins with a copy of the overhead presentations.

Comments and Questions:

Ms. Stead asked Mr. Reynolds if this case were to be approved by the Board of Adjustment, would it be necessary for the applicant to go before Tulsa Metropolitan Area Planning Commission (TMAPC), and Mr. Reynolds confirmed it would be necessary to present this to TMAPC for a minor amendment to the PUD for approval.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Stead, Tidwell, White, "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the parking requirement for a mixed use commercial building to 43 parking spaces (Section 1211 - 14); and **ACCEPT** a Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3). The Board finds that the parking requirements the established parking usage for this proposed facility the planned 43 spaces will be adequate and the parking is further substantiated by the parking easement for the plan of September 10, 2010 for this particular structure. This will be per conceptual plans 3.6, 3.7, 3.8, 3.10, covering Exhibit A; finding 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. The spacing will be per conceptual plan 3.9, covering Exhibit B; the Board moves based upon the facts in this matter as they presently exist the Board accepts the applicant's verification of spacing between a liquor store, blood banks, plasma centers, day labor hiring centers, bail bonds offices, pawn shops, and other liquor stores subject to the action of the Board being void should another conflicting use is constructed prior to this liquor store; for the following property:

Lot 5, Block 1, NGP Business Complex Addition

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Case No. 21134-Richard Morgan

Action Requested:

Variance to reduce the required setback from an abutting R district from 25 ft. to 15.25 ft. to permit an addition. (Section 404.F.4). **Location:** 11932 East 14th Street South

Presentation:

Richard Morgan, 7798 East 24th Street, Tulsa, OK; stated the church had been given a permit in 2009 to construct a new building on the property. At that time the City Building Inspection Department did not have a problem with the building being built 15 ft. from the property line but when a permit application was submitted for the addition to the building the City Inspection Department said it needed to be 25 ft. from the property line. The property to the south is owned by Emmanuel Assembly and is the Associate Pastor's parsonage.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, White, "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance to reduce the required setback from an abutting R district from 25 ft. to 15.25 ft. to permit an addition (Section 404.F.4). The Board finds that in this case when the original permit was issued it was not noticed that the building was too close to an abutting R District, being 15.25 ft. instead of the required 25 ft. The addition requested is in line with the other building and the Board believes to not accept this would be a hardship to the owner; finding 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, per conceptual plan 4.6; for the following property:

N164.53 LT 1 & N164.53 E/2 LT 2 BLK 10, ELM HURST

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Case No. 21135-Christian Sanchez

Action Requested:

Special Exception to permit an automobile sales use (Use Unit 17) in a CS district (Section 701); and a Variance to permit open air display of merchandise offered for sale within 300 ft. of an adjoining R district (Section 1217.C.2). **Location:** 7915 East 21st Street South

Presentation:

Sandro Baggiani, 7915 East 21st Street South, Tulsa, OK; represents CS Motors. He stated the property has been vacant for over a year and he wants to open an automobile sales business at this location.

Interested Parties:

Kevin Ngo, 7214 East 92nd Street South, Tulsa, OK; objects the proposed automobile sales use for the subject property. Through a translator he stated he owns the Vietnamese restaurant east of the proposed auto sales business. He continued, by allowing the business to go in Mr. Ngo believes there would be reduction in the business access to his restaurant because all the businesses in that strip share the same access. Access to the parking area for all the businesses in that strip is also blocked by a traffic island located in the middle of the street; the island only allows traffic to enter the business area from one direction.

Dwynne Cook, 7927 East 21st Street, Tulsa, OK; objects to the proposed automobile sales use for the subject property. She stated the businesses in the same strip business area and next to the proposed automobile sales have shared the same parking area and parking access for many years, and if the proposed automobile sales lot is allowed to block the access with a proposed fence it will inhibit business thus causing a loss of sales.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, White, "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to permit an automobile sales use (Use Unit 17) in a CS district (Section 701); and a Variance to permit open air display of merchandise offered for sale within 300 ft. of an adjoining R district (Section 1217.C.2); finding in granting the Variance there are extraordinary or exceptional conditions or circumstances, which are peculiar to the land, primarily the drop in the topography, with the fencing required this will alleviate any problems with the residential area. To do otherwise would be unnecessary hardship; that these extraordinary and exceptional conditions do not apply generally to other property in the same use district and that the Variance 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. In granting 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. The Board makes the following requirements: the screening fence shall be maintained in good order on the western boundary for a minimum of 25 ft. on the north; any lighting shall be shielded down and away from the residential district; vehicles for sale will be displayed only on the south, the east and west sides of the existing building and shall contain a maximum of 40 vehicles at any one time; no outside storage of batteries, tires, vehicle parts, etc.; no vehicle repair shall be made on site. This approval is limited to the display and sale of automobiles and light trucks under Use Unit 17. If any fencing is constructed in the front or front sides of the building it shall be no more than 2 ft. 6 in. tall; for the following described property:

W100 E173.78 N150 S200 SW SE SE SE SEC 11 19 13 TRS IN CITY

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Case No. 21136-Kinslow, Keith & Todd, Inc.

Action Requested:

Variance of the parking requirement for an exisiting church (Section 1205) and broadcasting studio (Section 1211). **Location:** 8835 South Memorial Drive

Presentation:

Scott Smith, Kinslow, Keith & Todd, Inc., 2200 South Utica Place, Tulsa, OK; represents the client located in the subject property which is a broadcast studio and an office building. Mr. Smith stated approximately one and a half years ago a church approached them to use the studio space for Sunday services. The client sought a PUD to allow the church use and it was approved in July 2009. In the course of the change of use changes now need to be made, and parking is one of the changes. The applicant is asking for a Variance for the design of the parking for the church use since they only meet on Sunday and not as a combined total for the broadcasting use and church use.

Ms. Stead asked Mr. Smith how many spaces were already in existence. Mr. Smith stated that for the church use 125 spaces are needed and for the office use 88 spaces are needed, and with restriping 127 spaces can be obtained which would be enough for the church and the office use.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, White "aye"; no "nays"; no "abstentions") to **APPROVE** the **Variance** of the parking requirement for an existing church (Section 1205) and broadcasting studio (Section 1211). The Board finds this property of commercial use is permitted in a development Area A. Development Area C is limited to open space, recreational and stormwater management which limits the probability of additional parking spaces. The Board also finds that the church services are principally limited to weekends, whereas, the recording studio is to be limited to Monday through Friday only. The Board finds that the parking lot will be restriped giving a total of 127 spaces which should be sufficient with the two entities operating at different times; subject to page 6.6, dated July 19, 2010 enumerating the hours for the two entities. In granting this Variance 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; for the following described property:

**PRT LT 1 BEG SWC TH N165.02 E25 N166.24 E135.19 NE279.43 S402.35 W430
POB BLK 1, PRT LT 1 BEG NWC TH E672 EL THEREOF S22.03 SE334.31 SE190
SE128 SL W658.57 N402.35 SW279.43 W135.19 WL N163.79 POB BLK 1, CARMAN
MINISTRIES INC HEADQUARTERS**

Case No. 21137-Alan Wheeler

Action Requested:

Special Exception to permit an indoor flea market (Use Unit 15) in a CS district (Section 701). **Location:** 6925 East Admiral Place

Presentation:

Alan Wheeler, 13749 South Nyssa Court, Glenpool, OK; requesting a Special Exception to allow a Flea Market.

Interested Parties:

There were no interested parties present.

Comments and Questions:

It was discussed that the applicant consider rezoning the CS portion of his property to match the CH zoning piece.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, White, "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to permit an indoor flea market (Use Unit 15) in a CS district (Section 701). The Board finds under the comprehensive plan it identifies this property as part of a town center district and an area of growth; subject to the following stipulations: no outside display or storage of merchandise, all activities are to be conducted inside, and approval is limited to Use Unit 15 indoor flea market use only and does not apply to other Use Unit 15 activities, and is limited to five years from this date. In granting this Special Exception 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; for the following property:

**PRT LTS 3 & 4 BROWN ADD & PRT LT 4 POLSTON SUB AMD BEG 145W SECR
LT 3 BROWN ADD TH W298.80 N125 W255 N444.20 E45 S4.58 SE677.73 S216.75
W145 S170 POB BLK 1, BROWN ADDN RESUB L3-4 POLSTON SUB**

21138-St. Andrews Presbyterian Church

Action Requested:

Special Exception to permit church use (Use Unit 5) in an AG district (Section 301).
Location: 8501 South Memorial Drive

Presentation:

Ray Tucker, P. O. Box 1909, Sand Springs, OK; represents St. Andrews Presbyterian Church. Mr. Tucker stated they would like to use the existing building on the property as a church. Mr. Tucker stated that if the parking becomes a concern then the existing parking spaces would be expanded, but right now they want to delay that expansion because the church is only leasing with the option to purchase the property. There is a privacy fence between the neighborhood and the church therefore that would keep the church activities separate from the neighborhood.

Mr. Henke inquired about the size of the sanctuary and the amount of parking; Mr. Tucker stated the sanctuary was a little over 500 sq. ft. and the lot would accommodate 20 parking spaces.

Interested Parties:

Linda Paul, 8738 South College Place, Tulsa, OK; stated she is concerned about the traffic and parking in this area. If the church were to remain small the parking and traffic would not be a concern but if the church is vibrant it will grow, therefore she would like to request a limitation of one or two years if the Special Exception is granted.

Richard Wilson, 1781 East 60th Place, Tulsa, OK; in response to a question about screening Mr. Wilson stated the existing fence on the south property line is between 6 ft. and 7 ft. tall.

Mr. Henke asked Mr. Tucker if he would object to the Board limiting the Special Exception to a time period of one year, and at that time he would need to come back before the Board to address any problems that may have arisen.

Rev. Ann Lamar, 1781 East 60th Place, Tulsa, OK; says she objects to the one year time limitation because the church lease will end in eleven months, at which time, the church needs to either purchase or vacate the property. Rev. Lamar stated she would prefer a limitation be consistent with the lease in place.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Stead, Tidwell, White "aye", no "nays", no "abstentions") to **APPROVE** the Special Exception to permit church use (Use Unit 5) in an AG district (Section 301) with the condition that this Special Exception will expire July 1, 2011 and the parking lot, shown on page 8.12, will be striped to accommodate the code requirement; finding 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; for the following property:

**PRT NW SE BEG NWC NW SE TH E300 S145.2 W300 N145.2 POB SEC 17 18 13
1AC**

21139-Gail Benedict

Action Requested:

Special Exception to permit a kennel use (Use Unit 15) in a CS district (Section 701).

Location: 8210 South Harvard Avenue

This case was withdrawn per the applicant's request.

OTHER BUSINESS:

None.

NEW BUSINESS:

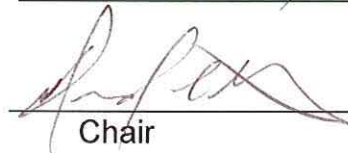
None.

BOARD MEMBER COMMENTS:

None.

There being no further business, the meeting adjourned at 2:41 p.m.

Date approved: SEPTEMBER 28, 2010


Chair