

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 941
Tuesday, September 12, 2006, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**
Dunham
Henke, Chair
Stead, Vice Chair
Stephens
Tidwell, Secretary

**MEMBERS
ABSENT**

**STAFF
PRESENT**
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, September 7, 2006, at 4:11 p.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

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 (Dunham, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of August 22, 2006 (No. 940).

NEW APPLICATIONS

Case No. 20329

Action Requested:

Variance of the front yard requirement from the centerline of a street from 50 ft. to 37 ft – 6 in. to permit a covered porch in an RS-3 District, located: 6231 East Oklahoma Street North.

Presentation:

Nanette Ritter, 6231 East Oklahoma Street, stated her request for a variance is to replace her front porch cover after a tornado damaged the original. The original was in existence for fifteen years. They began construction before obtaining a permit. She informed the Board that her neighbors were in support (Exhibit A-3).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the front yard requirement from the centerline of a street from 50 ft. to 37 ft – 6 in. to permit a covered porch in an RS-3 District, with condition that the porch not be enclosed, per plan, 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:

LT 12 BLK 6, MAPLEWOOD ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20330

Action Requested:

Variance of parking requirements from 76 to 5 (Section 1212); and a Variance of the screening requirement for a commercial property from a residential property (Section 1212.C.2) to permit a restaurant in a CH district, located: 643 South Peoria.

Presentation:

Pete Rommel, 5905 South Indianapolis, represented the applicant. They proposed to build a restaurant. He stated the lots are 50 ft. x 130 ft. and it would be hard to meet the current parking requirements. He submitted a site map and letters of support (Exhibits B-1 and B-2). The hours of operation would be 11:00 a.m. to 11:00 p.m., Tuesday through Sunday, and closed on Monday. The capacity seating is 165. The square footage is 7,512 sq. ft.

Comments and Questions:

Ms. Stead questioned Mr. Rommel about the parking spaces. She determined that he would need 76 parking spaces.

Kasey Rideout, 724 South Norfolk Avenue, informed the Board of the support of the neighborhood. She stated they plan to acquire Lot 16 to pave for parking to provide approximately fifteen spaces. She pointed out a public space adjacent to Central Park that is available for parking. She added that the on-street parking will

be helpful also. Ms. Rideout stated that they have obtained verbal and written approval to share parking at locations indicated on a color-coded site plan (Exhibit B-1). The Village at Central Park and the American Legion are two of those offering the use of their parking. She responded to other questions from the Board, stating they will serve alcohol and there will not be a dance floor. They planned to use the rocks on the property for landscaping. She proposed to offer valet parking on Friday and Saturday nights and she was not opposed to that condition to approval of the relief.

Interested Parties:

Gillermo Rojas, 4680 South Columbia, stated he has been in the restaurant business for many years. He expected this business to be good for Tulsa. He pointed out that it would create new jobs. He expressed his support for the application.

Christine Booth, 2332, South Evanston, stated she owns three properties in the Pearl District. She informed the Board she is the President of the Pearl District Association. She read a letter of support (Exhibit B-2) for this application. Ms. Booth stated the association is in support of mixed businesses and services. They have been observing the progress of this restaurant. They also encourage an emphasis on walking, cycling and the use of public transportation.

Theron Warlick, City of Tulsa, Urban Development Department, stated he is a planner. He informed the Board that he has been involved with the 6th Street Taskforce formally and now the Pearl District. He helped them develop their neighborhood plan, which was approved by the City Council in January 2006. It is an official amendment to the City of Tulsa Comprehensive Plan. This application is consistent with the neighborhood plan and the commercial corridor sub-area, which is about increased density. This also encourages constructing buildings that fit the neighborhood rather than letting the parking spaces dictate the size of the buildings. He indicated that under the current zoning it would be a small building surrounded by a large parking lot. He described plans to promote pedestrian activity at intersections and to provide a traffic calming affect.

Greg Jennings, 2260 South Troost, noted that the applicant is actually asking to park on a lot other than the one on which the business is located. He suggested a continuance of this case for the applicant to obtain leases for parking. He added that perhaps staff could create a parking matrix to keep track of the parking allotments so this area does not end up with the same problems as Brookside.

Marie Barnes, City Councilor for District 4, referred to a letter of support she sent to the Board. She suggested approval with a time limitation. They desire to encourage pedestrian use, and she is in support.

Ms. Stead expressed concern that they did not have written agreements for parking. She asked if the applicant has a signed parking agreement with the VFW.

Kasey Rideout, the applicant, replied that they met with the American Legion and received support for the use of their parking lot. The representatives were not sure how to write a legal agreement at the time, but they are willing.

Ann Thrasher, 5505 South Quincy Avenue, Cedar Street Enterprises, LLC, stated the Board should have received a letter from her. She expressed total support. She expected it to be a catalyst for bringing more business to this area.

Jamie Jamison, 706 South Owasso, referred to his letter of support (Exhibit B-2) for this application that he sent to the Board. He stated that he made it clear that he made an agreement with the applicant. He submitted a signed handwritten letter as well (see Exhibit B-2). Ms. Stead replied that she was referring to a formal agreement with the developer. She asked him if the agreement was revocable, to which he replied that it is but it would not be revoked soon or next year. Ms. Stead confirmed parking on his lot would be on an, "as available" basis.

Mr. Dunham out at 1:46 p.m.

Milford Carter, 1228 East 5th Street, Sr. Pastor of Evangelistic Church, stated they have been working with the 6th Street Task Force for five years.

Mr. Dunham returned at 1:53 p.m.

Mr. Carter expressed support of this application. He informed the Board that his church shares parking with the nearby credit union, print shop and Indian Health Center.

Ms. Stead noted that one car was parked in the alley and she could not pass it. She suggested the group needs to ask the City to put up, 'No Parking' signs for the alley.

Board Action:

On **Motion** of **Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of parking requirements from 76 to 5 (Section 1212); and a Variance of the screening requirement for a commercial property from a residential property (Section 1212.C.2) to permit a restaurant in a CH district, with the conditions: to provide valet parking during the hours of operation; secure a letter for parking from the American Legion and submit to the staff; to acquire Lot 16 and pave for parking; on the following described property:

LT 12 – LT 14 BLK 1, EAST LYNN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Mr. Dunham out at 2:05 p.m.

Case No. 20331

Action Requested:

Special Exception to reduce the required distance of the proposed tower from an adjoining office zoned lot (Section 1204.C.3.g.1), located: 1507 East 71st Street South.

Presentation:

Peter Kavanaugh, 1620 Handley Drive, Dallas, Texas, represented Verizon Wireless. He submitted photographs to show the property (Exhibit C-1). There is a church to the back of the site in a former Wal-Mart building, which was zoned office. He submitted propagation maps (Exhibit C-2).

Mr. Dunham returned at approximately 2:07 p.m. and Mr. Henke left the room.

Mr. Kavanaugh stated that Verizon needs a 100 ft. tower at this site to provide coverage inside surrounding buildings. He informed the Board that they could not collocate on the 72 ft. tower nearby, as it would put their antenna at 62 ft.

Mr. Henke returned at approximately 2:09 p.m.

Comments and Questions:

Ms. Stead stated opposition to two towers being so close to each other.

Interested Parties:

Greg Jennings, 2260 South Troost, submitted a matrix of the cells towers located in this particular area (C-3). He pointed out a cluster of three cell towers just north of the subject site. He noted a two-hundred foot tower at 62nd and Lewis, and the company that owns it advertises for collocation. He referred to another 120 ft. tower on the other side of Highway 75 that is also available. They have the technology to put up one tower that will cover 30 square miles. He was opposed to multiple towers in such close proximity.

Applicant's Rebuttal:

Mr. Kavanaugh referred to his propagation maps to point out where Verizon antennas are located. He stated they need the towers to provide coverage inside structures. Mr. Henke asked if he could come back to the Board and provide more information regarding the need for multiple antennas in such a small area. Mr. Kavanaugh replied that he would return with more information.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20331 to the meeting on September 26, 2006, to furnish information to the Board regarding existing towers in the area and the reasons they cannot collocate on them, on the following described property:

BEG 30N SWC SE SW TH N331.5 E180.7 S331.5 W180.7 POB LESS S30 SEC 6 18 13 1.25AC, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20333

Action Requested:

Variance of the required front yard in an RE district from 35 ft. to 25 ft. - 8 in. to permit a garage addition (Section 403), located: 2443 East 33rd Street South.

Presentation:

Greg Rex, 10539 East Admiral Boulevard, explained the variance is to extend a garage.

Comments and Questions:

Ms. Stead confirmed the extension was a difference of four feet from the existing setback on the eastside of the house. Mr. Rex replied she was correct.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the required front yard in an RE district from 35 ft. to 25 ft. - 8 in. to permit a garage addition (Section 403), per plan, 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:

LT-3-BLK-1, TIMBERLANE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20334

Action Requested:

Variance of the maximum permitted square footage for a detached accessory building in an RS-3 district from 962 sq. ft. to 1,344 sq. ft. (Section 402.B.1.d), located: 7805 South Xenophon Avenue West.

Presentation:

Jay Menger, 7805 South Xenophon, stated the variance was for a semi-attached three-car garage with a breezeway. The property sits on 2.3 acres in an old wildcat neighborhood. He pointed out the vast majority of the properties are two or more acres and zoned RS-3. He submitted an exhibit packet (Exhibit E-1), which included photographs of surrounding properties. The existing garage is too far back on the property and has no driveway, but it is the reason for the relief request. Mr. Menger plans to finish a driveway to the new garage from Xenophon. Ms. Stead noted it is not on the site plan. He replied that he would extend it from the existing driveway. Mr. Menger stated the structure would be one-story with a 12 ft. pitched roof. Mr. Cuthbertson interjected that the top plate can be no higher than 10 ft. and 18 ft. in height at the top of the structure. It would be brick-faced, 2 x 4 framing, composition shingle roof, with matching color and styling with the house. He stated it would not have any commercial activity.

Comments and Questions:

Mr. Ackermann confirmed the applicant applied for an application and it was reviewed. He also checked to see that this was the only relief requested.

Board Action:

On **Motion** of **Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the maximum permitted square footage for a detached accessory building in an RS-3 district from 962 sq. ft. to 1,344 sq. ft. (Section 402.B.1.d), per plan, finding this 2.3 acre lot would be adequate and there are a number of other buildings in the immediate area of this size and larger, 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:

SE SW NE SE LESS N25 SEC 10 18 12, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20335

Action Requested:

Verification of the spacing requirements for an adult entertainment establishment (bar). (Section 1212.a.C.3), located: 4133 South Peoria Avenue East.

Mr. Cuthbertson reminded the Board this is for verification of spacing only.

The existing parking will be refined with new landscaping and proposed improvements. The maximum height of the structure will be 25 to 26 ft. He stated there will be meeting rooms and a basketball court. It will be stucco with a lot of glass.

Mr. Tidwell returned at 2:46 p.m.

Comments and Questions:

Mr. Henke asked if they have sought relief from requirements for sidewalks. Mr. Akerman replied the project manager sent a waiver request letter for relief on the sidewalk requirements along Hudson Avenue. They felt that the trail along the west side of the structure would provide ample access routes for pedestrians in connection with other park trails and sidewalks on 51st Street. The existing retaining walls along the parking lot and other structures impede sidewalks without extensive retaining walls or storm water improvement structures, along Hudson Avenue. Initially, there was a letter of support for the sidewalk waiver after Public Works reviewed the requested permits, stating there was no subdivision platting requirement for the property in conjunction with the request. Later they discovered there was a special exception requirement which would trigger the platting requirement. Mr. Henke asked why the special exception was just now coming to the Board, after the ground-breaking. Mr. Akerman was not sure and agreed with Mr. Henke that this relief was overlooked.

Kurt Ackermann asked the applicant if they expected the special exception under Use Unit 5 to trigger a requirement for a plat from TMAPC. Mr. Darin Akerman replied it would trigger the plat requirement or a waiver of the plat. He asked if they have applied to TMAPC for a plat waiver, which Mr. Akerman replied affirmatively. Mr. K. Ackermann asked if they requested a waiver of the sidewalks from the planning commission. He replied in the affirmative, stating that letter would have been submitted earlier this week by Mr. Byer.

Mr. Stephens asked if the half-court basketball court is fully enclosed, to which Mr. Akerman replied that it is. Mr. Akerman stated they had a meeting in April 2006 with about 100 residents and representatives and there appeared to be strong support.

Interested Parties:

Greg Jennings, stated he is not opposed to the application but he did not know why the TMAPC would need to deal with a sidewalk issue. He did not understand why the County would not want to support sidewalks on a 2025 Plan project. He noted the subdivision regulations specifically state a requirement for sidewalks to provide adequate pedestrian traffic. He stated this project includes parks, trails, library, and a community center.

Mr. Stephens out at 2:56 p.m.

Mr. Ackermann stated he expected the planning commission would look forward to this Board making a statement or a decision on this issue.

Mr. Stephens returned at 2:59 p.m.

Richard Bales, 2315 Charles Page Boulevard, Park Director, stated they planned for sidewalks with paved walkways through the gardens in time. They did not want to place a straight sidewalk from 51st Street down Hudson. They did not want it to be part of this project and is not included in the budget for this part of the process. Mr. Henke asked him when they planned to do the sidewalk.

Mr. Al Byers(inaudible) 624 South Boston, stated the plan shows how the sidewalk would tie in to the original plan. They plan to construct the sidewalk behind the existing berm, which connects with the gardens all the way back to 51st Street.

Board Action:

On **Motion of Dunham**, 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 Public Library/Community Center in an RS-2 district, with a two-year waiver of construction of a curved linear sidewalk, per plan submitted at the hearing, on the following described property:

W795 E875 S1475 N1525 NW SEC 34 19 13 26.92ACS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20337

Action Requested:

Special Exception to allow an 8' privacy fence in the front yard. (210.B.3), located: 1725 East 41st Street South.

Presentation:

Gregory Helms, 329 South Elm Street, Jenks, Oklahoma, represented the property owner. He pointed out that the property is directly across from Victor Avenue. The wall was to buffer the property along 41st Street. He noted the staff comments regarding a 6 ft. wall along Xanthus Avenue. He measured that wall and found it to be 8 ft.

Comments and Questions:

Mr. Cuthbertson responded that a rear yard or side yard are allowed to have six or eight foot fences. Mr. Henke stated that this application is for the front yard. Mr. Helms replied he was just pointing out that there are walls along 41st Street.

Interested Parties:

Greg Jennings, stated it is not a fence but a wall. The house has existed as long as the street and the owner bought it that way. He expressed opposition because it cuts off the neighborhood and creates a compound with no open spacing. He added that it isolates everyone.

Dave Dutton, 4124 South Victor Court, wanted to know more details regarding the location and structure of the fence. Mr. Henke replied it would be seven feet from the street. He suggested vegetation, or an ornamental iron fence.

Herb Beattie, stated the Brookside Neighborhood Association is in agreement with the previous two interested parties.

Janet Pagano, 4105 South Victor Avenue, stated a wall would not be consistent with the neighborhood.

Applicant's Rebuttal:

Mr. Helms stated it would be about seven feet off the street and would not be any closer than the existing walls. They plan to landscape along the fence just like the existing fence is farther to the east. Mr. Stephens pointed out that some of the homes were there before the zoning code, as well as the fences. Mr. Ackermann explained that the zoning code states that to enclose a required front yard in RS-2, it requires 35 ft. from the property line. It allows you to place a berm, fence, wall or vegetation no higher than four feet within the 35 ft. If you place it out of the 35 ft. you can build it to eight feet.

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 Special Exception to allow an 8' privacy fence in the front yard. (210.B.3), on the following described property:

PRT LTS 2 3 6 & 7 & PRT VAC ST BEG 5E SWC LT 7 THN302.12 NE94.54 SE164 NE47.42 S241.24 W197.57 POBBLK 13 , HIGHLAND PARK EST, City of Tulsa, Tulsa County, State of Oklahoma

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OTHER BUSINESS

Mr. Henke out at 3:24 p.m.

Mr. Cuthbertson provided a Non-Residential Site Plan Check List. He stated he wanted them to review the list and make revisions or suggestions. He added that it would be put on the next agenda for discussion.

There being no further business, the meeting was adjourned at 3:25 p.m.

Date approved: 9-26-06

Frank X. McTy
Chair