

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 966
Tuesday, October 9, 2007, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

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

**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 Friday, October 5, 2007, at 9:16 a.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 (White, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of August 28, 2007 (No. 963).

UNFINISHED BUSINESS

Case No. 20571

Action Requested:

Variance of the maximum permitted display surface area for a sign accessory to an office use in a PUD (Section 402.B.4); and a Variance of the constant illumination provision to permit an LED changeable copy element in the sign (Section 402.B.4.b), located: 9004 East 61st Street South.

Mr. Cuthbertson stated the applicant submitted some revised plans, which eliminate the need for the second variance for the constant illumination provision. This is for a much smaller sign.

Presentation:

James Adair, 7508 East 77th Street, stated the original sign requested was a duplicate of others on South Yale, Southwest Boulevard and East 61st Street. He advised the applicant that the sign did not fit the neighborhood and the message center was not a hardship item. They agreed and submitted a revised plan (Exhibit A-1). He discovered the zoning code allows for the maximum size of 50 sq. ft., but somehow the City of Tulsa approved the existing sign for 80 sq. ft. The top portion of the revised sign is 50 sq. ft. They requested the variance to allow a curved design feature with some lettering on the brick pylon, which increases the square footage of the display area to 75.5.

Comments and Questions:

In response to questions Mr. Adair stated he did not think there would be any ground lighting or lighting in the brick pylon.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the maximum permitted display surface area for a sign accessory to an office use in a PUD (Section 402.B.4), to a maximum area of 75.5 sq. ft., per plan dated October 5, 2007, 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, on the following described property:

LT 1 BLK 1, COMMUNITY PLACE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20573

Action Requested:

Modification of a previously approved site plan to permit installation of a modular office, located: 6262 South Sheridan Road.

Presentation:

John Penrod, 6262 South Sheridan, stated he is the Chief Financial Officer of Shadow Mountain Behavioral Health System. They proposed to provide additional classroom space in the existing building. They planned to relocate the finance and accounting office to another office space in a 27' x 60' building on the subject property (Exhibit B-1). It is a modular building with a shingled roof and metal siding. It would be located near the center of the property, set back approximately 315 ft. from Sheridan Road and about 240 ft. from the south property line. The site is a low elevation that would only be visible to the public if they were on the property.

Comments and Questions:

In response to questions from the Board Mr. Penrod responded that there is not a determined timeline for the use of the modular building. It could be 10 – 15 years until they expand the main facility. He hesitated to commit to put a façade on the modular building because it is not visible from the property line or Sheridan Road. Ms. Stead mentioned a neighbor is concerned that though Shadow Mountain maintained the permanent structure, they did not maintain the existing temporary structure. He suggested the existing storage building may have been there for about 25 years and it will be removed if the other one is approved.

Interested Parties:

Lou Reynolds, 2727 East 21st Street, represented David Whitehill, General Counsel for the William K. Warren Foundation. They have no objection to a new structure, but they feel a modular building devalues the neighborhood. He predicted the foundation's plans would be vertical on their adjoining property to the south. They requested heavy landscaping on the property line and that the proposed building be temporary or sided with a more permanent appearance. He suggested a temporary plan for five years.

Clint Laster, 6100 South Yale, mentioned he sent a letter to the Board (Exhibit B-2). He expressed concern for protecting the integrity of the neighborhood. He stated they did not oppose the placement of the modular building but would like to see a time frame associated with the approval. They would be agreeable to a five-year time frame.

Applicant's Rebuttal:

Mr. Penrod responded they would be willing to do landscaping around the side of the building. It would represent about 31/2% of the square footage under roof at this location. The building would be new with about the same color siding as the permanent facility and large windows. It does not have the appearance of a modular home.

Comments and Questions:

Ms. Stead noted the areas around the site are all concrete or asphalt. Mr. Penrod stated the road up to the proposed building site is graveled. Mr. Stephens asked if

there would be any vehicles in front of the modular office. Penrod stated there would not be.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Modification of a previously approved site plan to permit installation of a modular office, with conditions for a 27 ft. x 60 ft. new construction on a permanent foundation; the old singlewide structure removed within three months from October 9, 2007; approval for five (5) years, at which time to be reviewed by the Board and at that time possibly providing for landscaping depending on development in the area; parking surfaces near the building be concrete or asphalt, per plan, on the following described property:

N 495 E 551.61 S/2 NE NE LESS E 50 FOR ST SEC 3 18 13, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 20575

Action Requested:

Variance of the required setback for a sign from the centerline of 31st street from 50 ft. to 35 ft. (Section 1221.C.5 & 14), located: 3344 East 31st Street South.

Presentation:

Brian Ward, 9520 East 55th Place, stated property had an image upgrade of building and canopy. They now need to upgrade the sign. He informed the Board if they moved it to a 50 ft. setback it would put the sign in the middle of the driveway on the east side of the property. It would lose visibility if they moved it to the south. A plan was provided (Exhibit C-1).

Interested Parties:

There were no interested parties who wished to speak.

Comments and Questions:

Ms. Stead asked Mr. Ward to explain the meaning of a two-line reader board. He explained it the same as the existing sign with manually changeable lettering.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Variance of the required setback for a sign from the centerline of 31st street from 50 ft. to 35 ft. (Section 1221.C.5 & 14), per plan as shown on page 4.6 of the agenda packet, finding the lot size and the proximity of the buildings to the arterial

street, 31st Street, presents a hardship, 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 the variance 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:

E140 N140 LT 3, ALBERT PIKE 2ND SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20577

Action Requested:

Variance of the required setback for a billboard from a visible R district from 200 ft. (Section 1221.F.4); and a Verification of the 1,200 ft. spacing requirement for an outdoor advertising sign from another outdoor advertising sign (Section 1221.F.2), located: 1347 East Skelly Drive.

Presentation:

Bill Hickman, 7777 East 55th Street, represented Lamar Outdoor Advertising. They proposed to move an existing billboard sign located on the east edge of property abutting the subject property (Exhibits D-1 and D-2). It is a legal non-conforming sign on property in the ODOT taking for I-44 widening. The shallowness of the property limits the required spacing from residential property. It is 120 ft. from the centerline of the road. It would be approximately 200 ft. to the residential structure, making the request for 80 ft. Mr. Hickman stated the sign would be 12 ft. from the new right-of-way line within the setback. Mr. Alberty stated it would be 20 ft. from the new driving surface.

Interested Parties:

Greg Jennings, 2260 South Troost, asked for the hardship. Mr. Henke thought the explanation, was the taking makes the lot non-conforming. Mr. Jennings stated if it was conforming it would still be too close to a residential neighborhood. He reminded the Board that this property is within the Brookside study area. Part of the study goals was to reduce visual clutter to the point they wanted to remove utility poles and run cables underground. He stated this does not fit in with the plan and it is much too close to the neighborhood. He added that the distance is supposed to be measured to the district not a house to allow for a buffer.

Applicant's Rebuttal:

Mr. Hickman pointed out that the new sign location would be farther from a residential district than the existing location. He stated that Lamar is looking for a new location and they are trying to do the right thing. He added it would be a savings to the taxpayers and reduce the impact on property owners because it provides a greater setback from residential zoning. He stated there are buildings

and structures that will partially, if not completely, limit and obscure the affect on the housing to the north by the existing motel property. He stated the existing sign is less than 50 ft. from the residential district.

Ms. Stead stated she would abstain from the vote on Case No. 20577.

Mr. Stephens was not sure that the Brookside study applied in this case, but they are a set of guidelines to go by. He noted there would probably be a convenience store across the street in the near future. He also observed that none of the neighbors within 300 ft. came in protest.

Board Action:

On **Motion** of **White**, the Board voted 4-0-1 (White, Stephens, Henke, Tidwell "aye"; no "nays"; Stead "abstained"; no "absences") to **APPROVE** a Variance of the required setback for a billboard from a visible R district from 200 ft. (Section 1221.F.4); and a Verification of the 1,200 ft. spacing requirement for an outdoor advertising sign from another outdoor advertising sign (Section 1221.F.2), per plan found on page 5.6 of the agenda packet, finding the proposed location will be further from an R district than the existing location of this non-conforming sign; 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, on the following described property:

LT 6 LESS E50 BLK 15, BELLAIRE ACRES SECOND EXT, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20578

Action Requested:

Special Exception to permit a carport in the front yard in an RS-3 district (Section 210.B.10) and a Variance of the required setback for a carport from the side lot line (Section 210.B.10), located: 3019 South Detroit Avenue East.

Presentation:

Renee Lamarow, 3019 South Detroit Avenue East, introduced her builder, **Jim Wall**.

Mr. Henke out at 1:51 p.m. and returned at 1:52 p.m.

Jim Wall, 2953 South Detroit, stated he could not build to the north, or modify the width of the garage because of the non-compliant lot. They proposed to build an unattached carport in front of the garage and against the property line to the north.

The plans are for a carport 20 ft. wide and 18 ft. deep (Exhibits E-1 and E-2). They only have six feet from the garage to the property line on the north.

Comments and Questions:

In response to questions, Mr. Wall planned to build the carport so that it extends south a few feet past the existing driveway. They will fill in approximately 18 in. with a hard surface for parking. Ms. Lamarow added that she talked with the neighbors and they were in support. Mr. Wall informed the Board they plan to maintain the same roofline and paint color as the home. He stated the pitch may not be exactly the same but it will be the same height as the house.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a carport in the front yard in an RS-3 district (Section 210.B.10) and a Variance of the required setback for a carport from the side lot line (Section 210.B.10.b), with condition for a side lot line setback to be a minimum of six inches, per plan as shown on page 6.6 of the agenda packet, finding the lot is legal non-conforming as to width; 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, on the following described property:

S 35 LT 5 & N 20 LT 6 BLK 7, TRAVIS PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20580

Action Requested:

Variance of the required 75 ft building setback from an abutting AG zoned district to 50 ft to permit the addition to an existing building in an IL zoned district (Section 903), located: 3030 North Erie Avenue.

Presentation:

Matt Baer, 5323 South Lewis, represented the owners of the machine shop on the subject property. They proposed to construct an addition to the building for expansion of the shop activity (Exhibit F-1). He stated the hardship is that the property to the north is AG and vacant, and the location of an existing strip-mining operation, which was used as a land-fill. The likelihood of any other use for that property is slim.

Interested Parties:

Robert Kirkpatrick, stated he is the Vice-President and General Manager of the company. The continue to expand and increase employment and customers

Board Action:

On **Motion of Stead**, the Board voted 5-0-0 (White, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the required 75 ft building setback from an abutting AG zoned district to 50 ft to permit the addition to an existing building in an IL zoned district (Section 903), per plan as shown on page 7.6 in the agenda packet, finding this industrial property is adjacent to AG zoning, which has been used as a landfill, and may be unfit for prime development; 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, on the following described property:

LT 1 BLK 1, WMI ADD RSB L1B1 ERIE IND PK & PT L1B1 GILCREASE FRWY
IND PK, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20581

Action Requested:

Variance of the maximum building height of townhouses in an RM-1 district from 35 ft to 42 ft (Section 403), located: Northwest corner of 41st Place and South Quincy Avenue.

Presentation:

Charles Norman, represented the property owner and developer of proposed townhouse units on the subject property and property to the south in PUD-744. This property allows townhouse uses as a matter of right. The maximum height of 42 ft. is permitted in the PUD, so they asked for a variance of the height from 35 ft. to 42 ft. to match those to the south. The plans are for garages on the lower level and two floors of living space with nine-foot ceilings. They could construct the townhouses with the 35 ft. height limitation but that would require flat roofs. He provided conditions in the agenda for this request (Exhibit G-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the maximum building height of townhouses in an RM-1 district from 35 ft to 42 ft (Section 403), with the conditions provided by the applicant on pages

8.6 and 8.7 in the agenda packet, finding the townhouses to the south in the PUD have a 42 ft. height as previously approved; 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, on the following described property:

LT 12 – LT 15 BLK 1, JENNINGS-ROBARDS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20582

Action Requested:

Special Exception to permit a manufactured home in an IM zoned District (Section 903), located: 125 South Gilcrease Museum Road.

Presentation:

Theda Paddock, 125 South Gilcrease Museum Road, stated her house burned down on this property and she did not have insurance to build a new one. She is living in a concrete block office building on the property until she obtained more permanent housing. She sold a mobile on the east of the property and the new owners were delayed in moving it to their property.

Comments and Questions:

Ms. Stead asked if they planned to re-establish the car lot on the property. Ms. Paddock replied that they do not. She informed Ms. Paddock they would have to remove the junk cars and other inoperable items stored on the property. Ms. Paddock stated they are in the process of removing the junk. Mr. Stephens asked if the proposed home is a new mobile, to which she replied it is not but it is in very good condition. The home was placed on blocks on the subject property before she found out she would have to go to the Board of Adjustment. Ms. Stead informed her they would have to have a hard surface on which to drive to the house and park cars.

Joe Vogal, 5141 North 68th West Avenue, stated there is an existing driveway and parking area for the original house in front of the mobile home. It was covered by fill dirt when the house was hauled out. They will re-establish it.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a manufactured home in an IM zoned District (Section 903), subject to the manufactured home being skirted, tied down; manufactured home on the east of the lot be removed in 60 days, as well as other junk cars and miscellaneous junk removed within one year of October 9, 2007; finding the special exception is 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 25E & 12S NWC NW SE TH E162 SE CRV RT77.74 SECRV LF78.44 E20 SE CRV RT 194.50 SE138 S303.02 NW653.96 N POB LESS BEG SECR THEREOF TH NW340 NLY310 TO SL RD TH ELY ALG R/W 280 S288 POB & LESS NLY 15 FOR RD SEC 3 19 12 2.442ACS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20583

Action Requested:

Variance of the required setback for a church in an R district from an abutting R district from 25 ft to 13.5 ft. (Section 404.F), located: 2245 North Norfolk.

Presentation:

Richard Walker, Pastor of the church, stated in 1986 a similar variance was approved, though this lot was not included. They want to finish their building plans by including this portion of the property.

Comments and Questions:

In response to questions from the Board, Pastor Walker stated they have two utility lights on that side of the property. He informed the Board that they allow neighbors using the park to use their property when they have ballgames. The church does not own the property with the house to the north.

Interested Parties:

Esther Ogens, 2202 North Owasso, President of the Lacy Park Task Force, stated that the building plans are not appropriate for the neighborhood. They objected to the parking lots and the church taking up more of the property in the neighborhood.

Mr. Cuthbertson reminded the Board that this application does not allow the church to accommodate additional property. It is for an addition to the existing building on their property.

Latricia Lewis, 525 East Woodrow Place, stated she is also part of the Lacy Park Task Force, and she was opposed to the application.

Applicant's Rebuttal:

Pastor Walker responded they have allowed the use of their facilities to the neighborhood. The church has purchased and improved properties in the neighborhood.

Comments and Questions:

Ms. Stead asked about the proposed height of the addition. He replied it would be about 13 ft. in height. He stated the hardship is for expansion for classrooms.

Mr. Tidwell out at 2:44 p.m. and returned at 2:47 p.m.

Mr. Stephens explained to the applicant the kind of hardship the Board needs to approve a variance. Pastor Walker informed the Board that the City has told the church they cannot build over the sewer line and underground utility lines. The Board members noted there is 29.5 ft. to the rear property line and the addition would only be 15 ft.

Board Action:

On **Motion of White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** Case No. 20583, for lack of a hardship, on the following described property:

LT 14 BLK 3, HENRY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

Case No. 20572

Action Requested:

Reconsideration of a Special Exception to permit a home occupation (lymph therapy and lymph massage) in an RS-3 district (Section 404.B), located: 2662 South Yale Avenue.

Presentation:

Lou Reynolds, 2727 East 21st Street, represented Pat DeMoss. He stated he did some research and provided an article from National Geographic (Exhibit H-1). He added it is a medical therapy that he would not mind having in his own neighborhood.

Comments and Questions:

Ms. Stead interjected the presentation to say the Board members respect the therapy Ms. DeMoss does. The interested parties objected to a business at this location and the additional traffic (Exhibit H-2). Mr. Reynolds stated this would generate less traffic than the general household by statistics. He added that this

meets all of the home occupation guidelines. Mr. Reynolds would welcome the opportunity to sit down with the neighbors and talk with them about the issues. Mr. Stephen was opposed to a home business and the location because of the traffic and the relaxed condition of the patients after their appointment. Mr. White was opposed to this business in a home. Ms. Stead was opposed to a business in a residential area.

Board Action:

On **Motion of White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a Reconsideration of Case No. 20572.

LOT-18-BLK-8, WISTFUL VIEW ADDN, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 3:05 p.m.

Date approved: 11/13/07


Chair