

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 970
Tuesday, December 11, 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

**OTHERS
PRESENT**

Ackermann, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Friday, December 7, 2007, at 11:14 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.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20604

Action Requested:

Special Exception to permit a Transitional Living Center, Homeless Center, Emergency and Protective Shelter and a Residential Treatment Center (Use Unit 2) in a CBD district (Section 701); and a Special Exception to permit such uses within a 1/2 mile of similar uses (Section 1202.C.7), located: 506 North Cheyenne Avenue West, 505 North Denver Avenue West.

Presentation:

Mr. Alberty stated the applicant requested a continuance to January 8, 2008.

Comments and Questions:

Mr. Henke responded the applicant may state the reason for the request when they open the hearing for this case.

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 November 13, 2007 (No. 968).

Case No. 20604

Action Requested:

Special Exception to permit a Transitional Living Center, Homeless Center, Emergency and Protective Shelter and a Residential Treatment Center (Use Unit 2) in a CBD district (Section 701); and a Special Exception to permit such uses within a 1/2 mile of similar uses (Section 1202.C.7), located: 506 North Cheyenne Avenue West, 505 North Denver Avenue West.

Presentation:

Mr. Coutant requested a continuance to January 8, 2007.

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 **CONTINUE** Case No. 20604 to the meeting on January 8, 2007, on the following described property:

The South Ten (10) feet of Lot 3, all of Lot 4 and all of Lot 5, Block 3, Original Town, now City of Tulsa, Tulsa County, State of Oklahoma, according to the official plat thereof, and the dedicated alley lying between the South ten (10) feet of Lot 3 and all of Lot 4 on the East and the South Ten (10) feet of Lot 6 and all of Lot 5 on the West, all in Block 3, Original Town, now City of Tulsa, Tulsa County, State of Oklahoma, according to the official plat thereof.

NEW APPLICATIONS

Case No. 20579

Action Requested:

Special Exception to permit a private school in an RS-3 district (Section 401); Variance of 1 acre lot area requirement for a Use Unit 5 school (Section 1205.B.2.c); Variance of the 25 ft. setback for a school from an abutting R district (Section 404.F.4), located: 2532 – 2540 East Admiral Boulevard.

Presentation:

Steve Olsen, 324 East 3rd Street, introduced John Rucker, who is on the Board in charge of facilities for San Miguel School. Mr. Rucker stated his address is 1933 South Boston. Mr. Olsen stated this case is for the St. Francis church and school property at Atlanta and Admiral. They are requesting a new school. Mr. Rucker informed the Board that San Miguel opened five years ago for grades 6, 7, and 8. They enroll a maximum of 72 students. They prepare the students for high school. Mr. Rucker added that they now have a baseline of results showing the success of the program.

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 private school in an RS-3 district (Section 401) 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; Variance of 1 acre lot area requirement for a Use Unit 5 school (Section 1205.B.2.c); Variance of the 25 ft. setback for a school from an abutting R district (Section 404.F.4), per conceptual plan, as shown on page 3.7 in the agenda packet, finding the historically platted 50 ft. lots have created part of the necessity for one variance and the total area of 3.5 acres is suitable to approve the other variance, 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:

LT 3, 4, 5, BLK 6, EAST HIGHLAND ADDN RES B1, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20612

Action Requested:

Special Exception to permit automotive sales in a CS district (Section 701), located: 12909 East 21st Street.

Presentation:

Mr. Alberty informed the Board that Mr. Coutant just asked for a continuance.

Interested Parties:

Wayne Bohanon, sent a letter of protest to the Board (Exhibit Ab-1).

City Councilor Dennis Troyer, was agreeable to a continuance.

Comments and Questions:

Mr. Alberty informed the Board that the applicant needs more relief.

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 **CONTINUE** Case No. 20612 to January 8, 2008, on the following described property:

LT 1 LESS BEG SWC TH N26 SE35.38 W24 POB BLK 1, SKELLY HGTS
ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20609

Action Requested:

Verification of the spacing requirement for an adult entertainment establishment for a bar (Section 1212a.C); and a Special Exception to permit a bar (adult entertainment establishment) on a lot with 150 ft. of R zoned land (Section 701), located: 5800 South Lewis Avenue.

Presentation:

Tom Dittus, 2032 East 14th Place, noted that this Board approved the same special exception for the Metropolitan Line Bar in BOA Case No. 20587, in the same center. They meet all other requirements and they are 386 ft. away from that establishment. All new leases in this center will be required to pay for 24-hour security. He stated the two properties zoned R are actually used as OL.

Interested Parties:

Mr. Henke mentioned the Board received one letter of protest from Al Grosech, President of Car Care Corporation.

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 **Accept** verification of spacing and, to **APPROVE** a Special Exception for a period of six years from December 11, 2007, 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, on the following described property:

PRT NE SE BEG 543S NEC SE TH W258 S595.62 E258 N595.50 POB LESS
E50 THEREOF FOR ST SEC 31 19 13 2.84ACS, City of Tulsa, Tulsa County,
State of Oklahoma

Case No. 20610

Action Requested:

Variance of required parking to 28 parking spaces (Section 1215.D), located: 4126 South Garnett Road.

Presentation:

Steve Schuller, 100 West 5th Street, 1100 ONEOK Plaza, represented QuikTrip, for their facilities, support and maintenance center, approved by the BOA in May, 2007. There will not be any customer/vendor use. The building is about 52,016 sq. ft., of which 4,780 sq. ft. they would use for office/administrative uses. The clean room will provide the dust-free environment for servicing and repair of electronic and computer components. He thought that room would require 16 parking spaces. The other equipment repair room will be 14,236 sq. ft. and require another 35 or 36 parking spaces. They will use about 33,000 sq. ft. for the mock-up stores and require 82 – 83 parking spaces. Only QuikTrip employees will use this facility.

Comments and Questions:

Ms. Stead noted the word warehousing on the site plan. Mr. Schuller replied that word was in error by the architect.

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 Variance of required parking to 28 parking spaces (Section 1215.D), with condition for no warehousing permitted in this application, per plan as shown on page 5.8 of the agenda packet with the exception of the term warehousing, finding the configuration of the buildings and the acreage itself would create an unnecessary hardship and extraordinary conditions or circumstances do not apply generally to other property 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:

LT 2 LESS BEG MOST E NEC TH S425.03 W259.76 N209.66 E APR 7.26
N197.50 W15 N17.5 E267.50 POB & LESSBEG NWC LT 2 TH E216 S268
W216 N268 POB BLK 1, 4100 GARNETT CENTER, City of Tulsa, Tulsa County,
State of Oklahoma

Case No. 20611

Action Requested:

Special Exception to permit public school accessory uses (Use Unit 5) in an RS-3, OL/ OM district (Section 401 and 601); Variance of the building setback requirement in an RS-3 district from 55 ft. to 38 ft. (Section 403); Special Exception to permit required parking on a lot other than the one containing the principal use (Section 1301.D); and a Special Exception to modify the height of a fence located in the required front yard from 4 ft. (Section 210.B.3), located: 10100 East 61st street and South side of 62nd Street East and West of 101st East Avenue.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, represented Union Public School System. He provided exhibits (Exhibits B-1 and B-2), including photographs of the property of the approximate 13 acres of Tract I and Tract II. They will construct soccer, softball and football fields, parking, a walking trail, screening fences and landscaping with trees. The ball fields need to be re-platted. He pointed out surrounding uses. He described the lighting for the ball fields, which would be about 1/3 of the high school field lights. Mr. Norman mentioned this project has some urgency and he discussed it with Mr. Alberty. He suggested approval of the special exceptions and variances subject to the City Council approving the down-zoning of the corridor district to the OL district.

Comments and Questions:

Mr. Alberty noted the Board does not have authority in the CO-zoned portion of the property, however, it appears that the rezoning from CO to OL will proceed to affirmative action. The Board could place a condition on the approval. Only a small portion of this application is within the CO. Ms. Stead asked if they could provide City Council approval without returning to the BOA. Mr. Alberty replied that they could but the downside is if the City Council did not approve of their application, they would need to pursue another avenue.

Mr. Norman suggested ballgames not start before 7:00 a.m. and end no later than 9:30 p.m.

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 public school accessory uses (Use Unit 5) in an RS-3, OL/ OM district (Section 401 and 601); Variance of the building setback requirement in an RS-3 district from 55 ft. to 38 ft. (Section 403); Special Exception to permit required parking on a lot other than the one containing the principal use (Section 1301.D); and a Special Exception to modify the height of a fence located in the required front yard from 4 ft. (Section 210.B.3), noting specifically that the relief is subject to

the downgrading of zoning of the present CO district to OL and that such proof of the City Council approval of the downgrading will be furnished to INCOG; subject to the narrative and exhibits on page 6.12 of the agenda packet; with the exception that practices and games on lighted fields will conclude no later than 9:30 p.m. and all field lights be off and the park closed by 10:00 p.m.; no practice or games to begin earlier than 7:00 a.m.; the 70 ft. field lights be as shown as type 3 lights on page 6.7 of the agenda packet; the photo-electric lights as type 2 shall comply with the Kennebunkport formula; landscaping per the plan Exhibit D, 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; and finding the special exceptions 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, on the following described property:

LOT 1, BLOCK 1, RE-UNION ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, CONTAINING APPROXIMATELY 14.5 ACRES; LOTS 1,2, AND 8, BLOCK 4, AND THE EASTERLY PORTION OF LOT 7, BLOCK 4, UNION GARDENS ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE NORTHEAST CORNER OF LOT 7; THENCE SOUTH ALONG THE EAST LINE A DISTANCE OF 122.53 FEET; THENCE WESTERLY A DISTANCE OF 421.12 FEET; THENCE NORTHERLY A DISTANCE OF 122.53 FEET; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 7 A DISTANCE OF 420.99 FEET TO THE POINT OF BEGINNING; AND THE WEST 155 FEET OF LOT 7, BLOCK 4, UNION GARDENS ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, CONTAINING APPROXIMATELY 7.5 ACRES; LOTS 6,7, AND 8, BLOCK 5, UNION GARDENS ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, CONTAINING APPROXIMATELY 6.3 ACRES.

Case No. 20614

Action Requested:

Variance of the minimum 1,200 ft. separation between outdoor advertising signs to 1,030 ft. (Section 1221.F.2), located: East of the Southeast corner of 165th East Avenue and I-44.

Presentation:

The applicant was not present.

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 **CONTINUE** Case No. 20614 to the meeting on January 8, 2008, on the following described property:

PRT LT 1 BEG NWC LT 1 TH CRV RT 101.91 S94 W100 N75 POB BLK 1, AUD ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20615

Action Requested:

Variance of the parking requirement from 215 to 191 existing parking spaces for a commercial mixed-use development (Section 1200), located: Southeast corner of 71st Street and Yale Avenue.

Presentation:

Lou Reynolds, 2727 East 21st Street, stated the Lighthouse Shopping Center is 29 years old and will receive a new face-lift. There are multiple uses with different hours of operation. The changes in uses require the changes in parking. It is surrounded by office and commercial uses. The hardship is the changing types of parking requirements per the changing use units. The applicant exhibits are included in Exhibit Bb-1, including the rent roll.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stephens**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the parking requirement from 215 to 191 existing parking spaces for a commercial mixed-use development (Section 1200), 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:

LTS 1 THRU 3 LESS BEG NWC LT 1 TH E38.83 SW40.77 E225.01 SE16.48 CRV LF 10.74 W10.92 N265.15 POB BLK 1, NOB HILL, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20616

Action Requested:

Variance of the 75 ft. setback requirement for industrial development from an abutting R district (Section 903); and a Special Exception to eliminate the screening requirement between an industrial development and an abutting R district (Section 212.C), located: 5576 North Mingo Road.

Presentation:

Stacey Hillis, 5576 North Mingo Road, and **Rod Henry**, P.O. Box 1080, Oologah, Oklahoma, the contractor, introduced themselves. Mr. Henry stated part of the subject property is in the city and part is in the county. The variance is in the IL to build a warehouse to park his trucks. The portable restroom company cannot construct the size of building they need with the required setbacks.

Comments and Questions:

Ms. Stead noted graveled area. Mr. Alberty responded the code requires any surfaces used for access or parking needs a hard surface. The zoning code does not address the outside storage surface material. The site plan is Exhibit C-1.

Interested Parties:

There were no interested parties who wished to speak.

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 75 ft. setback requirement for industrial development from an abutting R district (Section 903); and a Special Exception to eliminate the screening requirement between an industrial development and an abutting R district (Section 212.C), with conditions for no humans or any other waste disposal shall take place on this site; until and unless the northern portion is rezoned to IL all portable restroom business shall be conducted on the southern portion of the property in IL zoning, per site plan as shown on page 10.6 of the agenda packet, finding the hardship is the narrowness of the lot, but the existing inconsistency in the zoning; 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; finding 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, on the following described property:

E400 N200 NE NE SEC 12 20 13, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 2:30 p.m.

Date approved: 1-8-08

Handwritten signature in blue ink, appearing to read "Frank V. ...".

Chair