

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 977
Tuesday, April 8, 2008, 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 Thursday, April 3, 2008, at 1:49 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 (White, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of March 11, 2008 (No. 975).

UNFINISHED BUSINESS

Case No. 20642

Action Requested:

Special Exception to permit a duplex dwelling on a lot in the CBD district (Section 701), located: 820 East 3rd Street South.

Mr. Cuthbertson reminded the Board that this case was heard at the previous meeting of the Board. The Board approved two single-family dwellings in the CBD

District. The permit office determined they were classified as a duplex dwelling, which is not permitted by right in the CBD District.

Presentation:

Ms. Stead asked Mr. Freese if the plan has been changed at all since it was last presented. Mr. Freese replied that the plans (Exhibit A-1) were not changed.

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 Special Exception to permit a duplex dwelling on a lot in the CBD district (Section 701), per plan as shown on pages 2.6, 2.7 and 2.8 of the agenda packet, 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:

E46 LT 1 BLK 12, HODGE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20650

Action Requested:

Special Exception to modify the maximum permitted height of a fence in the required front yard in an RS-3 district from 4 ft. to 6 ft. (Section 210.B.3), located: 4813 East King Street North.

Presentation:

Mr. Cuthbertson reminded the Board that they approved the applicant for expansion of a childcare center at a previous meeting. The request for a six-foot fence was inadvertently left off of the application. New notices were sent out and now they are before the Board for the modification of the height of the fence. There are no other changes to the plans (Exhibit B-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, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit Use Unit 5 - Child Care facility in an RS-3 district (Section 401), per plan and narrative on pages 3.6 and 3.7 of the agenda.

Mr. White interjected, noting the wording of the motion was from the previous hearing.

Ms. Stead **Withdrew** her **Motion**.

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 Special Exception to modify the maximum permitted height of a fence in the required front yard in an RS-3 district from 4 ft. to 6 ft. (Section 210.B.3), per plan submitted, as shown on page 3.7 of the agenda packet, 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:

LT 8 BLK 2, MODERN HGTS, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 20659

Action Requested:

Special Exception to permit automobile repair (Use Unit 17) in a CS district (Section 701), located: 11682 East 21st Street.

Presentation:

Chanh Thanh Lam, stated his request.

Comments and Questions:

Ms. Stead confirmed that he wanted an extension of time for the approval. He stated the lease is for eight years. He obtained a lease in January 2007. He responded to Mr. White that he did not have the conditions to the approval of this use. Mr. Cuthbertson stated the conditions would have been attached to his Zoning Clearance Permit. He added that the original approval and conditions have expired.

Interested Parties:

Louis Dillon, 2142 South 117th East Avenue, Tulsa, Oklahoma 74129, pointed out where he lives. He did not have any objection as long as the property is kept up. He mentioned a couple of inoperable vehicles parked at or near the property.

Ms. Stead asked Mr. Lam if he has contracted to fix the inoperable truck. He has not been able to contact the owner of the truck. He planned to put a "lien sale" on the truck.

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 automobile repair (Use Unit 17) in a CS district (Section 701), with conditions of: approval for a period of five years at the location of 11682-B East 21st Street, pertaining to the automobile repair unit only; no outside storage of materials, batteries, parts or pieces; no repair work outside of the six service bays; no more than six customer vehicles awaiting repair in the parking lot in front of the business; to keep the lot clean of trash and shopping carts; no illegal disposal of solvents; 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:

LT 1 BLK 1, BURRIS SQUARE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20661

Action Requested:

Special Exception to permit a mini-storage facility (Use Unit 16) in a CS district; a Special Exception to remove the screening requirement for a Use Unit 16 use from an R district to the north and south boundary of the proposed mini-storage facility (Section 212.C.4); and a Variance of the requirement for frontage on an arterial street for a Use Unit 16 use (Section 1216.C.3), located: 6202 South Sheridan Road.

Presentation:

Lou Reynolds, 2727 East 21st Street, stated the west portion of the property was approved for a traditional mini-storage facility and a parallel building that has been built out for a mini-storage facility. They need a special exception of the screening requirement on the north side of the property for mini-storage. They proposed to build a two-story building. They previously obtained a mutual access easement to Sheridan but they do not have arterial frontage on Sheridan. The site plan is (Exhibit C-1).

Interested Parties:

There were no interested parties who wished to speak.

Comments and Questions:

Mr. Tidwell asked if they still have the mutual access easement, to which Mr. Reynolds replied that they do.

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** the Special Exception to permit a mini-storage facility (Use Unit 16) in a CS district; a

Special Exception to remove the screening requirement for a Use Unit 16 use from an R district to the north and south boundary of the proposed mini-storage facility (Section 212.C.4); 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; and **Move APPROVAL** of a Variance of the requirement for frontage on an arterial street for a Use Unit 16 use (Section 1216.C.3), finding the hardship to be that they have access via a mutual access to an arterial, namely Sheridan; 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 plan as shown on page 5.8 of the agenda packet, on the following described property:

Lot Three (3) and the West 48 feet of Lot Four (4) less the North Twenty-Five (25) feet of the West Forty-Eight (48) feet of Lot Four (4), Block Two (2), DEBORAH JEAN ADDITION, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

Case No. 20663

Action Requested:

Special Exception to permit a private park (Use Unit 5) in an RS-3 district (Section 401); a Variance of the 12,000 sq. ft. minimum lot size for a private park in an RS-3 district (Section 404.F); and a Variance of the minimum building setback from abutting R zoned properties (Section 404.F), located: 3046 South Peoria Avenue.

Presentation:

Neal Sperry, 1248 East 30th Place, stated the house had fallen into disrepair. He sought community support to renovate the property into a park for the citizens of the City of Tulsa. He stated he has received a lot of support from the community to follow through with the plans. It would not be a playground because of the busy intersection. They proposed to construct a sidewalk from the Maple Ridge neighborhood to Brookside. He provided a conceptual plan as shown in the agenda packet on page 6.7 (Exhibit D-1). He listed benefits of aesthetics and for pedestrian traffic.

Comments and Questions:

Mr. White confirmed that he had support from the abutting neighbors. He asked about the ownership of the property. Mr. Sperry stated that technically the Tulsa Community Foundation through the real estate subsidiary, TCF Realty, LLC owns the property. He added that basically the property is owned by a private charity, a

501c3. Ms. Stead asked about the plans for maintenance. Mr. Sperry replied they have a challenge out for an endowment and they have an endowment fund started. They are continuing their efforts to perpetually endow the property. Mr. Stephens asked about the conceptual plan that was provided. Mr. Sperry responded that they plan to include a gazebo, a small water feature, a sign consistent with the neighborhood, and heavy landscaping.

Interested Parties:

Roy Steverson, 204 East 21st Street, asked if there was a plan for curfew, and to discourage loitering in the park.

Cason Carter, 1308 East 27th Street, Tulsa, Oklahoma, 74114, considered this a great effort by a private group of citizens to improve the community. He stated the City will be involved in facilitating the construction of the sidewalk and to move the utility box. He has heard from citizens in support of this project. He commended Mr. Sperry on his initiative and efforts for the park. He expressed his support of the application.

Applicant's Rebuttal:

Mr. Sperry stated that part of the design plan includes lighting for the gazebo and the marker at the entrance to the park. There is an existing street light on the property. He stated his property abuts the property, so he will also be observing.

Mr. Cuthbertson reminded the Board that this request triggers the platting requirement. There may be a need for them to dedicate right-of-way. Mr. Henke asked how they intend to light the gazebo. Mr. Sperry expected there would be internal lighting and spot lighting of the gazebo.

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 park (Use Unit 5) in an RS-3 district (Section 401); a Variance of the 12,000 sq. ft. minimum lot size for a private park in an RS-3 district (Section 404.F); and a Variance of the minimum building setback from abutting R zoned properties (Section 404.F), with the conditions that any lighting be directed downward with no spill-over lighting to adjacent residences; subject to the conceptual plan on page 6.7 of the agenda packet, noting this plan may be modified by the platting process; 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; and finding the lot size of less than 9,000 sq. ft. and less than the required minimum for a private park is a hardship; 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:

E 4 LT 25 & ALL LT 26 LESS ST BEG SEC LT 26 W 3.5NE TO E L S 13 TO BEG BLK 4, SOUTHMOOR ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20664

Action Requested:

Modification of conditions of a previous approval to eliminate or extend a time limitation for a community center in an IL district (Section 901), located: 825 North Sheridan Road.

Presentation:

Joe Wells, 502 West 6th Street, represented the Community Center. His client leased the subject property. It is time to renew the special exception.

Comments and Questions:

Ms. Stead mentioned an anonymous letter (Exhibit E-1), which is supposed to be from business owners. She asked to have his client respond to the letter.

Jannett Talbert, 825 North Sheridan Road, introduced herself to the Board.

Ms. Stead addressed the complaint of loud noise around the subject property. Ms. Talbert responded that this complaint has not been brought to her attention before. She hires security guards to work the parking lot for events. No business owners have approached her or the landlord with this complaint. She assured the Board that she would deal with any such complaint. She has had about ten events since she leased the property in January. They are on Fridays and Saturdays. They are concerts, gospel shows, stomp dance competitions, plays and dances. There are no outside speakers. Trash is cleaned up after every event on the property. There are two or three other late night businesses down the street.

Interested Parties:

David Bemis, 6514 East King Street, Tulsa, Oklahoma, 74115, stated he owns the business on the end of the strip center at this address. He stated it is a courier service with the hours of operation, 8:00 a.m. to midnight, sometimes cars return between midnight and 7:00 a.m. They deliver in five states. They have had occasions that they cannot access their building because cars are parked in front of their overhead door. He added that glass bottles, trash, garbage tossed on his area. He has seen people park their cars in front of his overhead door at 3:30 and 4:00 a.m. and asked them not to park there. The people responded with verbal abuse. He had to hire security. He did not have these problems until recently. He stated these problems happen primarily on Friday and Saturdays.

Tim Lewis, 7305 East Latimer Place, stated he represented the owners of a business to the south of the event center. He added the businesses along Independence have put up 'No Trespassing' signs.

Applicant's Rebuttal:

Mr. Bemis stated his client asked the Tulsa Police Department to tape off the neighboring lots during events to discourage parking on other lots. They do not sell alcoholic beverages on the subject property. Ms. Talbert started opening the gate for parking on the back of the subject property. She is open to communication with neighboring business owners so she can deal with any issues.

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 conditions of a previous approval to eliminate or extend a time limitation for a community center in an IL district (Section 901), subject to closing at 2:00 a.m. on Fridays and Saturdays, and on other nights closing at 12:00 midnight; provision for adequate security and trash pick-up at all events; construction of 8 ft. board fences on the east and south sides; approval is for twelve months from this date, April 8, 2008 only; music heard outside of the building to be kept at acceptable decibel levels per City Ordinances, 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:

LTS 3 & 4 LESS W 5' TO CITY, POLSTON SECOND SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20673

Action Requested:

Minor Variance of the 5 ft. side yard requirement in an RS-2 district to 4 ft. (Section 403) to permit a structural addition to an existing dwelling, located: 203 Sunset Drive.

Presentation:

Paul Nelson, 9203 Sunset Drive, presented the request for a minor variance as above. The relief is for a one-foot encroachment into the five-foot setback to four feet. Due to the shape of the lot the encroachment would only be about 5.9 sq. ft. at a v-shaped point. The site plan is (Exhibit F-1).

Interested Parties:

Roy Steverson, 204 East 21st Street, asked if it is required that everyone in a 300 ft. radius receive notice. Mr. Cuthbertson responded that it is not required for a minor variance, just notice to the abutting neighbors. He asked if the applicant could pull the extension back one foot. He stated there is no hardship. He

indicated he and the neighborhood were concerned about more relief requests that change the character of the neighborhood. They were opposed to the application.

Applicant's Rebuttal:

Mr. Nelson responded that if he withdrew the one-foot relief it would take out about 60 sq. ft. of his project.

Comments and Questions:

Mr. White commented this would be in character with the neighborhood.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Minor Variance of the 5 ft. side yard requirement in an RS-2 district to 4 ft. (Section 403) to permit a structural addition to an existing dwelling, per plan on pages 8.6 and 8.8 as shown in the agenda packet, 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, primarily the lot configuration and the requested four-foot sideyard will be in character with the majority of structures that were built in the same time period in this neighborhood, on the following described property:

BEG 75W OF SECR TH WLY39.1 TO PT TH AROUND A CRV W & NLY121.7 TH NELY115.75 TH NELY42.53 TH SWLY160POB LT 8 BLK 6, SUNSET PARK AMD, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 2:38 p.m.

Date approved: ~~6/13/08~~ ^{5/13/08}


Chair