

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 997
Tuesday, March 10, 2009, 1:00 p.m.
Tulsa City Council Chambers
One Technology Chamber
175 East 2nd Street

**MEMBERS
PRESENT**

Henke, Chair
Stead, Vice Chair
Stephens
Tidwell, Secretary
White

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Alberty
Cuthbertson
Pyron

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Wednesday, March 4, 2009, at 3:53 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 1:03 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 January 13, 2009 (No. 993).

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 January 27, 2009 (No. 994).

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 February 10, 2009 (No. 995).

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 February 24, 2009 (No. 996).

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20877

Action Requested:

Request for Continuance to March 24, 2009 for a Variance of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign for a church in the AG district (Section 302.B.2); and a Variance of the minimum setback from a visible R district (Section 1221.C.2.c), located: 5415 East 101st Street South.

Presentation:

Duane Cuthbertson informed the Board that the applicant had requested a continuance until March 24, 2009. The request for continuance was made in a timely fashion.

Board Action:

On **Motion of Tidwell**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Continuance until March 24, 2009, on the following described property:

LT 1 BLK 1, REDEEMER COVENANT CHURCH, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20880

Action Requested:

Withdrawal of a Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), located: Northwest of the intersection of East 31st Street North and North Florence Avenue.

Presentation:

Mr. Cuthbertson advised the Board that the applicant had withdrawn this case.

Board Action:

No action by the Board was necessary.

UNFINISHED BUSINESS

Case No. 20874

Action Requested:

Special Exception to permit a child care center in the RS-3 district (Section 401); a Variance of the parking requirement for a child care center (Section 1205); and a Variance of the minimum lot size, minimum frontage required, and minimum building setback from an abutting R district (Section 404.F) to permit a child care center in the existing dwelling, located: 1619 North Boston Place.

Presentation:

NaTosha Carter, 4908 North Johnstown Avenue, Tulsa, Oklahoma. Ms. Carter stated she is trying to develop a childcare center in the neighborhood and has received a positive response from 30 neighbors and received only two negative responses. Ms. Carter said she chose this neighborhood because there are many children who walk to school so she would provide transportation to and from school. She would also provide after school activities.

Comments and Questions:

Ms. Stead commended Ms. Carter for wanting to open a childcare center in this area; however, she expressed concerns over the number of children authorized to be in the center. Ms. Stead asked Ms. Carter if she lived at the address and Ms. Carter answered that no one would live there. The facility is for childcare only. Ms. Stead asked where the three employees would park. Ms. Carter stated the two other employees who are her mother and sister would all ride together in one vehicle. Ms. Stead said she drove by the location two times noting that the Board has to be careful about disruptions to the neighborhood even though there is positive support for the facility from the neighbors. She further stated that with 25 children in the center, there would be ten to twelve automobiles dropping off children in the morning and returning in the evening to pick them up unless transportation is provided to them. Ms. Carter said she would be providing transportation. Ms. Stead asked where the bus would be parked and how would people turn around. Ms. Carter said people would turn around in the street because it is a wide street. Mr. Henke asked about the size of the bus and Ms. Carter replied that it is a seven-seater van. Ms. Carter said she is licensed for twenty-five children but she may only have twelve children in the morning and then twelve children would be there after school. Mr. Stephens asked if Ms. Carter would consider limiting the number of children. He voiced concerns should she reach capacity and the small size of the lot and the house. Ms. Stead said most applications before the Board are for home daycare and that most day care centers are on main thoroughfares in commercial areas. She stated the Board is concerned the childcare center would crowd the neighborhood. The usual application for home day care allows for seven children including the owners' children. Ms. Stead acknowledged that this application request is for a learning center. Ms. Carter stated DHS required the wording of "learning center" in the title because no one will live at the address. Ms. Stead asked what Ms. Carter would

do if the Board limited her to seven children. Ms. Carter said she would not be able to operate it because of the financial loss. Mr. Tidwell asked about discussing the morning children. She said there would be ten to twelve children aged from one year to four years. She said by the time the after school children arrive around 3 pm or 4 pm, the morning children will be gone. Ms. Stead asked if this was a three bedroom and would all these rooms be dedicated to childcare. Ms. Carter stated that all three bedrooms would be used for childcare. Chair Henke asked Staff if a Special Exception could have a time limit. Mr. Cuthbertson answered that a Special Exception could be granted temporarily and that the Special Exception would be of no use if the Variances were not granted.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stead**, the Board voted 4-1-0 (White, Henke, Stead, Tidwell "aye"; Stephens "nay"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a child care center in the RS-3 district (Section 401); a Variance of the parking requirement for a child care center (Section 1205); and a Variance of the minimum lot size, minimum frontage required, and minimum building setback from an abutting R district (Section 404.F) to permit a child care center in the existing dwelling, for a period of two years from today's date subject to the applicant information on page 2.9. In granting the Special Exception, the Board finds that 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 as exhibited by the number of neighbors who signed statements of appropriateness included in the meeting packet. In granting the Variances, the Board finds that 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 17 BLK 1, MELROSE 2ND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20870

Action Requested:

Variance of the parking requirement (Section 1215); and a Special Exception to modify the screening requirement between the subject property and the abutting R district to the north (Section 1215.C & 212.C); and a Variance of the 75 ft. setback

requirement for a structure in the IL district from an R district (Section 903), located: 1131 East Easton Street.

Presentation:

Matt King, 4332 South Birmingham Avenue, Tulsa, Oklahoma. Mr. King spoke on behalf of his brother who owns KC Woodworking and Fixture Shop. A lot combination has been done on two tracts of land creating a need for a Variance of the 75 ft. setback requirement. The new addition will be within the "L" shaped building. There are five employees plus the owner. Most of the products will be shipped so there is not a need for additional parking. The applicant is looking at paving twelve parking spaces. There is a public alley separating the property from residential areas; therefore, a Special Exception to the screening requirement has been requested.

Interested Parties:

There were no interested parties who wished to speak.

Comments and Questions:

Ms. Stead confirmed with Mr. King that the lot combination had been filed.

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 the parking requirement (Section 1215); and a Special Exception to modify the screening requirement between the subject property and the abutting R district to the north (Section 1215.C & 212.C) noting that the Special Exception will eliminate the screening requirement; and a Variance of the 75 ft. setback requirement for a structure in the IL district from an R district (Section 903) per site plans on pages 3.7 and 3.8. In granting the Variances, the Board finds that by reason of the size of the lot and the structures and buildings already in place, 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. In granting the Special Exception, the Board finds that 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 with the understanding that the lot combination has been filed of record in Tulsa County, on the following described property:

LTS 35 thru 44 BLK 5, FRISCO ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20876

Action Requested:

Request to reconsider a Special Exception to permit a kennel (Use Unit 15) in the CS district, located: 11202 East 61st Street.

Presentation:

Jeff Platt, 7980 Flagstone Street, Frisco, Texas. Mr. Platt is Director of Real Estate for Taco Bueno Restaurants. Taco Bueno has a store adjacent to the subject property. The company did not receive notification until the day the Board had originally heard and approved the request for a Special Exception. Mr. Platt stated he would like to have an opportunity to gain more information on the plans for the property. He asked if the applicant provided address information for adjacent property owners within 300 feet. Taco Bueno was notified thru their tax service who received the notice. Mr. Platt informed the Board that the City had issued a citation for mowing at one of their locations and the citation was received by the tax service and the corporate headquarters. Mr. Stephens suggested Mr. Platt notify the Assessor's office of the address of the corporate headquarters to prevent any future notification delays. Mr. Platt stated that Mr. Reynolds who filed the application had been contacted by Taco Bueno's legal department to find out the intent and plans for development of the kennel. Mr. Platt had visited a Taco Bueno location in the Dallas area that has a kennel located adjacent to the store.

Comments and Questions:

Mr. Alberty clarified that names and addresses are provided as a service to the applicant although the ordinance states the applicant will provide this information. The information that the County Assessor has on record is the information that is used to contact property owners. Mr. Cuthbertson reminded the Board that the Special Exception had been approved by the Board with the only condition being per site plan submitted on page 4.7.

Interested Parties:

Andrew Shank, 4121 East 36th Place, Tulsa, Oklahoma. Mr. Shank was in attendance for Lou Reynolds who was unable to attend the meeting. Mr. Shank stated that they did not have any problems with this case being reconsidered; however, Mr. Reynolds would not be able to attend the March 24th meeting and asks that this case be heard on April 14th.

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 Request to reconsider a Special Exception to permit a kennel (Use Unit 15) in the CS district. 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 Request to reconsider the case on April 14, 2009, on the following described property:

PRT LT 1 BEG NWC TH E122 S8 E28 S152 E25 S180 W175 N340 POB BLK 1,
NEAL PLAZA, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 1:46 p.m.

Date approved: 3/24/09



Chair