

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1047
Tuesday, May 10, 2011, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Henke, Chair Van De Wiele White, Vice Chair	Stead Tidwell, Secretary	Alberty Cuthbertson Sparger	Boulden, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, May 5, 2011, at 11:02 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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 **WHITE**, the Board voted 3-0-0 (Henke, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the **Minutes** of the April 12, 2011 Board of Adjustment meeting (No. 1045).

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the **Minutes** of the April 26, 2011 Board of Adjustment meeting (No. 1046).

UNFINISHED BUSINESS

21254—Roy Johnsen

Action Requested:

Variance of the minimum required lot width in the RS-1 district from 100 ft. to 80 ft. (Section 403) to permit lot-splits. **Location:** 2914 East 44th Place South

Presentation:

No presentation was made. The applicant requested a continuance due to a lack of quorum for this case; today there are three Board members present and one of the three must recuse from this case.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Van De Wiele, White “aye”; no “nays”; no “abstentions”) to **CONTINUE** the request for a Variance of the minimum required lot width in the RS-1 district from 100 ft. to 80 ft. (Section 403) to permit lot-splits to the May 24, 2011 hearing; for the following property:

LTS 5 & 6 BLK 7, VILLA GROVE PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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21256—HRAOK, Inc.

Action Requested:

Variance of the maximum amount of required front yard permitted to be covered with an all-weather surface in the RS-3 district from 34% to 45% to permit three-car wide driveways in front of three-car garages (Section 1303.D). **Location:** East of the northeast corner of East 51st Street and South 177th East Avenue

Presentation:

No presentation was made. The applicant wants to have a full five member board present to hear the case.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Van De Wiele, White “aye”; no “nays”; no “abstentions”) to **CONTINUE** the request for a Variance of the maximum

amount of required front yard permitted to be covered with an all-weather surface in the RS-3 district from 34% to 45% to permit three-car wide driveways in front of three-car garages (Section 1303.D) to the May 24, 2011 hearing; for the following property:

A tract of land situated in the Southwest Quarter (SW/4) of Section 25, Township 19 North, Range 14 East, of the Indian Base and Meridian, City of Tulsa, Tulsa County, State of Oklahoma, according to the U.S. government survey thereof, said tract being more particularly described as follows: Beginning at the Southeast Corner of the Southwest Quarter (SW/4) of said Section 25; Thence N 89° 56' 51" W, along the South Line of the Southwest Quarter (SW/4) of said Section 25, a distance of 1411.00 feet; Thence N 00° 02' 49" E a distance of 1210.82 feet, to a point on the South line Block 7 of "Stonegate" a subdivision to the City of Tulsa recorded as Plat No. 5992; Thence S 89° 56' 33" E, along the South line of said "Stonegate" and along the South line of "Stonegate II" a subdivision in the City of Tulsa recorded as Plat No. 6269, a distance of 1230.79 feet; Thence S 00° 03' 27" W, along the Platted Right of Way of South 185th East Avenue per "Stonegate II", a distance of 71.07 feet; Thence S 89° 56' 33" E, along the Platted Right of Way of South 185th East Avenue per "Stonegate II", a distance of 60.00 feet; Thence along a curve to the right, along the Platted Right of Way of South 185th East Avenue per "Stonegate II", having a tangent bearing of N 00° 03' 27" E, a radius of 25.00 feet, a central angle of 90° 00' 00", an arc distance of 39.27 feet, a chord bearing of N45° 03' 27" E and a chord distance of 35.36 feet; Thence S 89° 56' 33" E a distance of 95.17 feet, to a point on the East line of the Southwest Quarter (SW/4) of said Section 25; Thence S 00° 02' 39" W, along the East line of the Southwest Quarter (SW/4), a distance of 1164.63 feet, to the Southeast Corner of the Southwest Quarter (SW/4) and the Point of Beginning. The non-astronomic bearings for said tract are based on an assumed bearing of N 89° 56' 51" W, along the South Line of the Southwest Quarter (SW/4) of Section 25, Township 19 North, Range 14 East, of the Indian Base and Meridian, City of Tulsa, Tulsa County, State of Oklahoma, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

21257—Carl Edmunson

Action Requested:

Appeal the determination of an Administrative Official (#651183) regarding Automotive Repair use of the property; inoperable, unserviceable, and/or junk vehicles; and parking of vehicles on a non-all-weather material in the yard.

Location: 17317 East 14th Street South

Presentation:

The applicant requested a continuance for this case in order to have a full Board present.

Interested Parties:

Joyce Balanti, 2608 West Kenosha, #40, Broken Arrow, OK; stated she opposes the request for continuance. She stated she is one of four heirs of the subject property and has been trying to resolve this estate for ten years, and if the applicant were granted any waivers it would create a massive issue. For the sake of the estate and the surrounding neighbors, she is opposed to the request for a continuance.

Lori Lewis, 4512 South 132nd East Avenue, Tulsa, OK; stated she opposes the request for continuance. This has been an ongoing issue and it should not be allowed to be so.

Dorothy Hoddy, 1512 South 173rd East Avenue, Tulsa, OK; stated she opposes the request for continuance. She stated she purchased 14 acres and built a large house, and the salvage yard and repair shop is devaluing her property. She would like to have the issues addressed today.

Comments and Questions:

Mr. Boulden stated this case is unusual and he advised the Board that there are many issues related to the subject property. For that reason, if the issues raised by the appellant are the same as those that have been addressed by the District Court and the Court of Appeals, the Board of Adjustment may not have jurisdiction. Therefore, he would advise the Board not to hear this case, but until he knows exactly what the basis of appellant's complaint is he could not truly give advice on that. He wanted to make the Board aware of the situation in case it affects their judgement to continue this matter.

Mr. Henke stated that the Board should continue this case. He provided if the interested parties cannot attend the next hearing they can write a letter or send an e-mail to Mr. Cuthbertson and that correspondence will be given to the Board for consideration in the hearing of this case.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Henke, Van De Wiele, White, "aye"; no "nays"; no "abstentions") to **CONTINUE** the request for an Appeal the determination of an Administrative Official (#651183) regarding Automotive Repair use of the property; inoperable, unserviceable, and/or junk vehicles; and parking of vehicles on a non-all-weather material in the yard to May 24, 2011; for the following property:

LT 8 BLK 7, LYNN LANE ESTATES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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UNFINISHED BUSINESS

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21255—A-MAX Sign Company

Action Requested:

Variance of the maximum display surface area for a sign in the OM district (Section 602.B.4.c) to 240 sq. ft.; a Variance of the maximum permitted height for a sign in the OM district (Section 602.B.4.e) from 20 ft. to 30 ft.; and a Variance of the requirement that illumination of a sign in the OM district shall be by constant light to permit a digital changeable copy sign (Section 602.B.4.f); all to permit a ground sign on East 81st Street. **Location:** 2702 East 81st Street

Presentation:

Brian Ward, 9520 East 55th Place, Tulsa, OK; stated there is a new sign proposed for Victory Bible Institute, the 24/7 Ministries, and the 3-D College. He informed the Board that a couple of years ago Victory Bible Institute was consumed by the Department of Transportation for the highway widening project at 51st and Peoria Avenue, and Victory moved to the 81st and Delaware location. At that point they knew they needed to do something about their signage because the existing signage was inadequate for all their needs. The square footage of the proposed sign has been kept to a minimum with a color message unit added to advertise the many functions within their building. The ORU Mabee Center is to the north and the City Plex Towers are to the south and with the surrounding land and buildings, a 30-foot-tall sign will not appear that tall.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Henke, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the maximum display surface area for a sign in the OM district (Section 602.B.4.c) to 240 sq. ft.; a Variance of the maximum permitted height for a sign in the OM district (Section 602.B.4.e) from 20 ft. to 30 ft.; and a Variance of the requirement that illumination of a sign in the OM district shall be by constant light to permit a digital changeable copy sign (Section 602.B.4.f); all to permit a ground sign on East 81st Street. This will be subject to the conceptual plan submitted today showing the dimensions of the sign, as well as the location of the sign and as shown on page 4.6 which is substantially the same place where the current sign is presently located, finding that the topography of this lot and the development in and around this lot will present a hardship such 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 variances 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; for the following property:

LT 1, BLK 1, ORAL ROBERTS UNIVERSITY HGTS 2ND ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

Case No. 20300-A—Lonnie Basse

Action Requested:

Modification of a condition of a previous approval to eliminate or extend the time limitation of five years related to a special exception permitting seasonal outdoor retail sales and open air activities on the CS zoned property. **Location:** NE/c of East 81st Street and South Mingo Road

Presentation:

Lonnie Basse, 4732 South Columbia Place, Tulsa, OK; stated he is requesting the Board to consider an elimination or extension of the time limitation previously permitted on the subject property. He advised that the corn maze venture has been discontinued to the north due to the inability to cultivate the crop.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Modification of a condition of a previous approval to eliminate the time limitation of five years related to a special exception permitting seasonal outdoor retail sales and open air activities on the CS zoned property. This will be subject to all other previous conditions that were established on the original application; for the following property:

S. 475 ft. of the West 475 ft. of Section 7, T-18-N, R-14-E, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21258—Claude Neon

Action Requested:

Variance of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign for a school in the AG district (Section 302.B.2.b); and a Variance of the maximum permitted height of a sign in the AG district from 20' to 21' – 4" (Section 302.B.2.b); to permit a new ground sign in front of Central High School. **Location:** 3099 West Edison Street

Presentation:

Gary Larson, 1225 North Lansing, Tulsa, OK; stated he is seeking the same relief that the Board of Adjustment has granted Hale, McLain, and Webster, which are magnet schools.

Mr. White asked Mr. Larson if the sign would be oriented facing east and west, and Mr. Larson confirmed that it would.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign for a school in the AG district (Section 302.B.2.b); and a Variance of the maximum permitted height of a sign in the AG district from 20' to 21' – 4" (Section 302.B.2.b); to permit a new ground sign in front of Central High School, finding that the height of the sign from 20'-0" to 21'-4" would not be out of line as far as the tract of land is 46 acres and on that particular side of the street there are no residential structures for at least 800'-0"; finding that in these times the requirement for communication is increased and the LED display would be an asset to the school to communicate functions occurring or announcements for students and/or parents; this is to be per conceptual plan on page 8.6 and on page 8.7 for location. 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 variances 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; for the following property:

33-20-12 LOT 3 & NW SE LESS 2.43A RD, E 660' OF W 1320' OF N 660, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21259—Stephen Schuller

Action Requested:

Special Exception to permit a college use (Use Unit 5) in an SR district. **Location:**
4500 South 129th Avenue

Presentation:

Leah White, 100 West 5th Street, Suite 1100, Tulsa, OK; stated the client is proposing to have a higher education facility in an office complex, similar to the University of Phoenix with no dormitories. The SR district is designed to provide an environment for scientific research and institutional use. This property is currently unleased office space and is part of an office park near 129th and 41st Street. The proposal is to convert unused office space into a productive educational use. ITT Technical Institute will offer programs and studies for Associates and Bachelor Degrees in nursing, criminal justice, computer technology, business and other majors. The comprehensive plan identifies this property as an employment and growth area which contemplates office, warehouse, and information technology use and extensive commercial activity. The proposed use is consistent with the existing uses in the surrounding area. The exterior of the building will not be changed and there is plenty of parking to accommodate the students and faculty.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the request for a Special Exception to permit a college use (Use Unit 5) in the SR district; subject to per plan on page 9.5. 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; for the following property:

LT 1, BLK 1, CITIES SERVICE CENTER, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No. 21260—Max Heidenreich

Action Requested:

Variance of the parking requirement for a mixed use property in the IM district (Section 1200) to permit multiple uses in existing buildings. **Location:** NE/c of South Madison Avenue and East 3rd Street

Presentation:

Max Heidenreich, 7434 South Gary Place, Tulsa, OK; he stated he is requesting a variance for a series of buildings that are located at 3rd and Madison. There are existing structures that are being utilized for youth services, and one third of the facility is used as a drop-in center. The drop-in center is for street kids to drop in twice a week to obtain clothing and rest. There are storage facilities for youth services that are under transitional living. There has been a lot tie completed; easement from the railroad has been obtained so there is access from the rear of the building; and today's request is the next step to be able to obtain a building permit so the building can be brought up to date and in compliance with the code.

Interested Parties:

There were no interest parties present.

Comments and Questions:

Mr. Cuthbertson advised that the requested relief does not permit a transitional living center as classified under Use Unit 2. The transitional living center will be subject to other code requirements including the spacing requirements.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Henke, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the parking requirement for a mixed use property in the IM district (Section 1200) to permit multiple uses in existing buildings. The Board has found that this property was built before the current zoning code, is built almost to capacity to the lot lines and does not provide for parking sufficient to it's size, and that the planned use of the property does not require an amount of parking that would otherwise be required. 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; subject to the plan on page 10.6; for the following property:

LT 1, BLK 10-A; LTS 16 & 17, BLK 10-A; LT 18 BLK 10-A, HODGE ADDN; all of that portion of a platted 20 ft. alley being south of the MK&O RR & being North of East 3rd St. South right of way in Block 10-A, Hodge Addition, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No. 21138-A—St. Andrews Presbyterian Church

Action Requested:

Amendment to a condition of a previous approval (permitting church use in the AG district) to eliminate or extend the time limitation. **Location:** 8501 South Delaware Avenue East

Presentation:

Ray Tucker, P. O. Box 1909 (11450 West Highway 51), Sand Springs, OK; stated the church would like to have the time limitation eliminated so they can become a part of the community. Since they were before the Board last year they have added parking and there is ample parking, approximately 30 spaces. The resident to the south of the church was concerned about being able to see the congregation and staff over the fence that separates his property from the church so the church planted shrubs that will grow taller than the fence which will protect his privacy.

Rev. Ann Lamar, 1781 East 60th Place, Tulsa, OK; stated the church is doing well and they do not intend to become a mega church; if that were to happen they would need to find another place for the church. They have not received any complaints from any of the residents near the church.

Interested Parties:

Linda Paul, 8738 South College Place, Tulsa, OK; stated she is a property owner in the neighborhood to the north and to the south of the subject property. She is concerned over the removal of the time limitation. At the last hearing the church stated they were going to purchase the property and today they have not said whether they had purchased the property. Ms. Paul stated there had been one incident where a church goer had parked in the the grass. She stated she opposes the elimination of the time limitation, because once the limitation is removed, the church could be sold and another occupant could bring in something that would be totally incompatible with the neighborhood. She would like to see restrictions placed on the subject property and the time limitation remain in place, and not an open-ended variance granted to protect the neighborhood.

Mr. Van De Wiele told Ms. Paul that if the request were approved today it would be limited to a site plan that had been provided by the applicant, and if the applicant wanted to build something different from what was on the site plan, they would be required to come back before the Board.

Rebuttal:

Mr. Tucker stated that one person had parked in the grass and he was corrected and asked to remove his vehicle. That person has not been back to the church since that day. The church is attempting to purchase the property. The church has the money to purchase the property and there is a contract which should be closed in June.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Amendment to a condition of a previous approval (permitting church use in the AG district) to eliminate the time limitation, and the same conditions to be continued that existed on the previous approval with the condition of restricting the use of the existing facility as shown on the site plan on page 11.6. Screening will be provided between the parking lot and the adjacent contiguous residential use on the north, south and east and will be per code. 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; for the following property:

PRT NW SE BEG NWC NW SE TH E300 S145.2 W300 N145.2 POB SEC 17 18 13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21268—Wally Wozencraft

Action Requested:

Minor Variance of the rear yard requirement in the RS-2 district from 25 ft. to 20 ft. (Section 403) to permit an addition to an existing dwelling. **Location:** 2115 East 36th Street South

Presentation:

Wally Wozencraft, 1619 South Boston, Tulsa, OK; stated his client wants to add a bedroom and bath to the rear of his home.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Henke, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Minor Variance of the rear yard requirement in the RS-2 district from 25 ft. to 20 ft. (Section 403) to permit an addition to an existing dwelling finding that this lot is smaller than the typical RS-2 lot making any addition problematic; finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to this 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 minor 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 conceptual plan on page 12.6; for the following property:

N100 OF S140 OF W/2 W/2 W/2 W/2 SE NE SEC 19 19 13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

Case No. 21266—Stephen Schuller

Action Requested:

Appeal the determination of an Administrative Official (Complaint# 653885).

Location: 3232 East Independence Street

Presentation:

No presentation was made. The case was withdrawn and the applicant is requesting a refund for \$210.00.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Henke, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the request for refund for \$210.00; for the following property:

W159.57 LESS N30 NE NE SE SE SEC 32 20 13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS:

None.

BOARD MEMBER COMMENTS:

None.

There being no further business, the meeting adjourned at 2:11 p.m.

Date approved: 5/24/11



Chair