

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1050
Tuesday, June 28, 2011, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

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

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, June 22, 2011, at 3:26 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Vice Chair White 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 4-0-0 (Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the **Minutes** of the June 14, 2011 Board of Adjustment meeting (No. 1049).

UNFINISHED BUSINESS

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NEW APPLICATIONS

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21285—Shawn Whitworth

Action Requested:

Variance of the paving requirement for a permitted automobile storage yard in a CH district (Section 1303.D). **Location:** Southeast of the SE/c of East Admiral Place and North Pittsburg Avenue

Presentation:

Shawn Whitworth, P. O. Box 582113, Tulsa, OK; stated he is wanting to create an automobile storage yard for his car lot and proposes to gravel the storage area, which is located behind the car lot. When the I-244 expressway was built, it caused this land to be landlocked and the land is not serviced by City water.

Ms. Stead asked Mr. Whitworth if the two houses on the property were occupied and he stated that they were. Ms. Stead then asked if Mr. Whitworth knew what had been on the property before he purchased it, and Mr. Whitworth stated that he had not been able to find anyone who knew.

Mr. Cuthbertson stated that this lot belonged to an originally-platted neighborhood and before the expressway was built, the subject property consisted of several parcels but they were each part of traditional residential lots that abutted the street to the south, which is where the highway is now located. This property was actually part of the neighborhood located south of the highway. After the highway was completed this is property that the Oklahoma Department of Transportation decided they did not need for highway or right-of-way purposes so they designated it excess land. In 1970 when the City of Tulsa undertook the comprehensive rezoning, the City rezoned it as CH because it did not make sense to leave the property as an island of residentially zoned property in between the highway and the CH-zoned corridor to the north.

Mr. Whitworth stated that there is a gravel driveway that leads into the land and separates the two houses from the back lot. He would like to continue the gravel to the back two lots that he is proposing for storage.

Mr. White asked Mr. Whitworth if the tenants of the houses were being employed as security for the property, and Mr. Whitworth confirmed that they were his security. Before the tenants moved in he had thieves stealing items from his property and the cars. Mr. Whitworth stated that it had become so bad that he had barbed wire and razor wire installed on his fence.

Ms. Stead asked Mr. Cuthbertson to find out what the legal separation is between a public sidewalk and a fence with barbed wire. Mr. Cuthbertson stated he would. Mr. Whitworth stated that he would take down the barbed wire and the razor wire if necessary.

Ms. Stead asked Mr. Whitworth if he repossesses cars that are inoperable, and if he does, where does he store them. Mr. Whitworth stated his is not a junkyard and that if he does have an inoperable car on the lot he sells the car to a wholesaler.

Interested Parties:

Reba Gulley, 724 North Marion, Tulsa, OK; stated she owns the property directly south of the car lot and has owned it since 1959. Ms. Gulley stated that Mr. Whitworth defaced her property by stating he was cleaning up and clearing off his property but it was her property that he had cut down the shrubs. Ms. Gulley stated she had called the police when Mr. Whitworth was clearing the property but they did not make a report.

Ms. Stead asked Ms. Gulley if she would have a problem with the Board permitting the use of gravel on the two east lots in question. Ms. Gulley stated she was not sure because she did not know enough about commercially-zoned property, but would like to see the zoning rules complied with.

Mr. Whitworth came forward and stated he needed to apologize to Ms. Gulley, because his intent was to clean and simply just that. He did not mean to show disrespect to anyone. During the cleaning process Mr. Whitworth stated he met Ms. Gulley and since then he has not cleaned any more of the area.

Mr. Boulden asked Mr. Whitworth if he had plans in the future to pave the subject lot and Mr. Whitworth stated that he did not because with the width of the existing driveway a large vehicle cannot access the property; i.e., a trash truck is too wide to navigate the driveway.

Phil Arnett, 432 South Allegheny, Tulsa, OK; stated that he had purchased the subject property from the Smith family in approximately 2000 and used it as low-rent rental property for family and friends who were in need, and now he is selling the subject property to Mr. Whitworth. When he purchased the property the Smiths had told him that the State had condemned the property for the I-244 expressway and after the expressway was completed the Smiths purchased the land back from the state and lived there with their son until all three were deceased. This property is of no value except to someone who is trying to use it as Mr. Whitworth wants to use it.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Stead, Tidwell, Van De Wiele, White, "aye"; no "nays"; no "abstentions") to **APPROVE** a Variance of the paving requirement

for a permitted automobile storage yard in a CH district (Section 1303.D). This Board has found that when the I-244 expressway was planned and properteries purchased these lots were essentially wasted space. The alley/easement coming from Pittsburg to the east, which is the access to the most southern lots, was in existence before the City of Tulsa zoning code in 1970. The Board makes the provision that there be no inoperable vehicles stored on the lots to the east that are to be graveled. The board fence as currently erected is to be maintained in good condition, subject to the conceptual plan on page 2.6. In granting the variance the Board has found for the above reasons these are 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; for the following property:

N. 100' OF LTS 48 49 BK 1, N.100' LT 50 BK 1, N. 100' LT 51 BK 1, & LT 1 LESS N27.69 TO CITY & LESS TR BEG SWC TH N172.31 E15 SE173.36 W37.13 FOR HWY & PLUS LT 2 LESS N27.69 TO CITY BLK 1; RODGERS HGTS SUB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21286—Northeastern Oklahoma Woodturners

Action Requested:

Variance of the parking requirement for a woodworking shop (Use Unit 15) in an existing building from 11 spaces to 5 spaces. **Location:** 10117 East 50th Street

Presentation:

Maurice Clyma, 5129 South Lakewood Avenue, Tulsa, OK; stated the organization is requesting to have the parking space requirement reduced. The building had been an office warehouse and has been donated to the Northeastern Oklahoma Woodturners, which is a nonprofit organization. When the building permit was filed it was discovered that the organization was also changing the use of the building, thus calling for the 11 parking spaces. There are five existing parking spaces in front of the building with no other space on the property for additional parking. The neighbor to the west of the building has offered his six parking spaces for their use when he is not open for business, which will be after 5:00 p.m., Monday through Friday and weekends, and that coincides with the Northeastern Oklahoma Woodturners activities. The organization has a meeting and demonstration once a month that starts at 6:30 p.m. Four times a year the organization has a professional woodturner present an all day seminar and small classes, which consist of eight or nine students at one time, on weekends. In addition to the business to the west offering the use of parking spaces, about a half block west of the organization, is a large manufacturing company and they have offered

the use of their parking spaces at any time. Any other activities that would happen during the day would be members cleaning and maintaining the equipment or building.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Stead, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”) to **APPROVE** a Variance of the parking requirement for a woodworking shop (Use Unit 15) in an existing building from 11 spaces to 5 spaces. The Board has found that the applicant’s use of the property practically requires fewer parking spaces than the legally-required number of parking spaces. The Board has further found that the applicant’s principal use of the property occurs in off-business peak hours and that the applicant has made arrangements for overflow parking on neighbors lots that will be sufficient for the subject property’s use. This is subject to the as-built plan on page 3.6. The Board has found that in granting this variance, there are 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 that 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; for the following property:

LTS 17 & 18 BLK 42, ALSUMA, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21076-A—Shelby Navarro

Action Requested:

Special Exception to permit a community center/ meeting-performance rental venue (Use Unit 5) in the IM district (Section 901) in an existing multi-space center; to continue a previously approved use. **Location:** 1238 West 41st Street South

Presentation:

Kevin Hale, 418 South Peoria Avenue, Tulsa, OK; stated he represents Shelby Navarro and the owner is requesting a continued use of the property. In the past year’s operation there have been no complaints from the neighbors.

Interested Parties:

Michael Boyle, 1407 South Gary Place, Tulsa, OK; stated his family owns the building where the unit is located, and he understands the concern regarding the special exception. To this point \$16,000.00 has been spent to get the unit into compliance to be able to receive the certificate of occupancy permit, pass the inspections, and for today’s application. The building is a commercial property and is surrounded by commercial property and he would like to see this special exception request be granted by the Board.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Stead, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”) to **APPROVE** a Special Exception to permit a community center/ meeting-performance rental venue (Use Unit 5) in the IM district (Section 901) in an existing multi-space center; to continue a previously approved use. This approval applies to Unit D as shown on page 4.11 and applies to no more than 2,500 square feet of the space described. Subject to further limitations, there will be no outdoor speakers, there will be no amplified music after midnight and the facility shall close by 2:00 A.M. There shall be no parking on the grass or dirt next to the adjacent creek and the back door, which is the east door, will be used as an emergency exit only with an alarm attached to the door which would be activated if the door were opened. The Board has found 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; for the following property:

E110 W160 N448.4 NW NE NW LESS N50 FOR ST SEC 26 19 12 1.006ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21287—Jerry Horton

Action Requested:

Special Exception to allow a machine shop (Use Unit 25) in a CH district (Section 701). **Location:** 6033 East Tecumseh Street North

Presentation:

Jerry Horton, 5029 South 218th West Avenue, Sand Springs, OK; stated he is proposing to operate a machine shop in the building. The operating hours will be the normal business hours of 8:00 to 5:00 with occasional overtime hours. There are no plans of operating a second or third shift, and if the business should grow to that capacity, the operation would need to find another building.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** a Special Exception to allow a machine shop (Use Unit 25) in a CH district (Section 701). The Board has found that the RM-1 zoning to the north is not a residential property; it is office. The hours of operation are limited to 7:00 A.M. to 7:00 P.M., weekdays and weekends. The existing shade cloth fence on the west and on the south side be maintained in good condition. In granting the special exception the Board has found that 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; for the following property:

LTS 8 9 10 11 BLK 9, DAWSON AMD (ORIGINAL TOWNSITE), CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21288—Anthony Smith

Action Requested:

Special Exception to permit a tent revival (Use Unit 2) in an IM district (Section 901); and a Special Exception to permit an alternative material for off-street parking (Section 1202.C.1). **Location:** 2432 East Apache Street North

Presentation:

Anthony Smith, 1602 North Denver, Tulsa, OK; stated he has been before the Board on several occasions for previous tent revivals at different locations and today the request is for an East Apache location. He is requesting the hours be from 9:00 A.M. to 1:00 P.M. and from 7:00 P.M. to 10:00 P.M., and would like this to be granted for a five-year term. The revival will be for ten consecutive days, during the summer only, and then the tent will be removed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to permit

a tent revival (Use Unit 2) in an IM district (Section 901); and a Special Exception to permit an alternative material for off-street parking (Section 1202.C.1); limiting the special exception to a ten-day period total per year for the 2011 to 2015 time period, with further limits of the time period to occur between May 1st and August 31st of each year. This will be subject to Health Department approval. There is to be no outside speakers. The hours of operation are to be from 9:00 A.M. to 10:30 P.M.; subject to the conceptual site plan on page 6.8, further providing that the tent will be no larger than as shown on page 6.8. In granting these special exceptions the Board has found that these 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; for the following property:

PRT NW NW BEG 16.5E & 40S NWC NW TH S357.85 NE189.28 NE184.9 NE104.33 NE211.3 N30 W120 NE11.43 W466.25 POB SEC 29 20 13 3.11ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No. 21289—Brad Lewis

Action Requested:

Variance of the maximum permitted building height for a detached accessory building located in the required rear yard from one story, 10 ft. at the top plate and 18 ft. total (Section 210.B.5.a); a Variance of the maximum coverage of the required rear yard permitted in the RS-3 district (Section 210.B.5.a) from 30% to 36%; and a Variance of the maximum permitted floor area for a detached accessory building in the RS-3 district (Section 402.B.1.d) from 768 sq. ft. to 1,090 sq. ft. **Location:** 1212 South Gary Avenue East

Mr. Cuthbertson announced the second variance request had been eliminated due to a revision of the site plan.

Presentation:

Brad Lewis, 1212 South Gary Avenue, Tulsa, OK; stated that his father owned the house and he is planning to purchase it in the near future. The lot was purchased in 2009 and the 60'-0" x 32'-0" house was built in 2010. The lot is a non-conforming lot and the house has been designed to fit into the neighborhood with the garage door off the frontage like the rest of the neighborhood. The existing garage was deteriorated so it was razed and the new garage was built and moved forward to adjust for the rear fence. Mr. Lewis would like to use the space above the garage as storage or an office, with the possibility of using it as a sleeping room with a bathroom and kitchenette in the future.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** a Variance of the maximum permitted building height for a detached accessory building located in the required rear yard from one story, 10 ft. at the top plate and 18 ft. total (Section 210.B.5.a); and a Variance of the maximum permitted floor area for a detached accessory building in the RS-3 district (Section 402.B.1.d) from 768 sq. ft. to 1,090 sq. ft.; subject to the site plan as submitted today and conceptual plan on page 7.8 for the height dimensions. Subject to the further restriction that there will be no commercial or residential rental activities in the detached accessory building. The Board has found that this lot is narrower than the typical RS-3 zoned property and the building to be constructed is in keeping with the overall feel of the neighborhood. The Board has found 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 3 BLK 7, PILCHER SUMMIT ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS:

None.

BOARD MEMBER COMMENTS:

None.

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

Date approved: 7/12/11

Chair