

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1087
Tuesday, February 12, 2013, 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 Tidwell, Secretary Van De Wiele White, Vice Chair	Snyder	Miller Back Sparger	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, February 7, 2013, at 9:50 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.

Ms. Back read the rules and procedures for the Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **TIDWELL**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the **Minutes** of the January 22, 2013 Board of Adjustment meeting (No. 1086).

Mr. Henke explained to the applicants that there were only four board members present at this meeting, and if an applicant would like to postpone his or her hearing until the next meeting he or she could do so. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from three board members to constitute a majority and if two board members voted no today the application would be denied. Mr. Henke asked the applicants if they understood and asked the applicants what they would like to do. The applicants stated that they would like to proceed with the hearing today.

UNFINISHED BUSINESS

21454—Arthur Wallace

Action Requested:

Special Exception to permit carport in the required front yard in an RS-3 district (Section 210.B.10.g); Variance from extending 20 feet into the required front yard to 31 feet from the existing principal building (Section 210.B.10.c); Variance of maximum height from 10 feet to 11 feet - 4 inches (Section 210.B.10.d); Variance from the maximum allowed carport size from 20 feet x 20 feet to 19 feet x 30 feet (Section 210.B.10.a). **LOCATION:** 5136 South Troost Avenue East **(CD 9)**

Mr. Henke recused himself and left the meeting at 1:05 P.M.

Presentation:

Arthur Wallace, 5136 South Troost Avenue, Tulsa, OK; no presentation was made but the applicant was available for any questions.

Mr. White stated that the request for the license agreement has been reviewed and that license agreement was denied.

Mr. Wallace asked if the Board would consider allowing the airport if it were no longer than 26 feet, because that would take the carport out of the City's right-of-way by four inches.

Mr. Van De Wiele asked Mr. Wallace if the carport were taken back to 26 feet would that remove the first section of the airport. Mr. Wallace answered affirmatively.

Mr. White asked Mr. Swiney if the Board were to approve this carport at the smaller dimensions if a permit would still be required. Mr. Swiney stated that a permit would still be required. Ms. Back stated that Mr. Wallace would still need to apply for a building permit and a zoning review is a part of that process.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-1 (Tidwell, Van De Wiele, White “aye”; no “nays”; Henke “abstaining”; Snyder absent) to **APPROVE** the request for a **Special Exception** to permit carport in the required front yard in an RS-3 district (Section 210.B.10.g); **Variance** from extending 20 feet into the required front yard to 27 feet from the existing principal building (Section 210.B.10.c); **Variance** of maximum height from 10 feet to 11 feet - 4 inches (Section 210.B.10.d); **Variance** from the maximum allowed carport size from 20 feet x 20 feet to 19 feet x 26 feet (Section 210.B.10.a). 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. The Board has found that the home and the lot in question, due to the mature tree on the property, and the size of the existing garage and driveway present a hardship. 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:

LT 7 BLK 3, LECRONE'S LAZY L ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-1 (Tidwell, Van De Wiele, White “aye”; no “nays”; Henke “abstaining”; Snyder absent) to **MODIFY** the previous approved motion to provide the applicant 30 days from the date of this meeting, February 12, 2013, to modify the size of the carport to what was approved in the previous motion; for the following property:

LT 7 BLK 3, LECRONE'S LAZY L ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Henke re-entered the meeting at 1:16 P.M.

20318-A—All Star Builders – David Ellis

Action Requested:

Variance of the requirement that no merchandise may be displayed outside within 300 feet of an R district (Section 1217.C.2); **Special Exception** to allow automobile

sales (Use Unit 17) in a CS Zone (Section 701). **LOCATION:** 602 South Sheridan Road (CD 5)

Presentation:

David Ellis, 6901 South Red Bud Avenue, Broken Arrow, OK; no presentation was made but the applicant was available for questions.

Mr. Henke stated that this case had been continued from a previous meeting to add the Special Exception request, and he stated that he does not need to hear any more testimony from Mr. Ellis. Mr. Henke asked the Board if they had any additional questions of Mr. Ellis, and no one responded. Mr. Henke took the Board into discussion.

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 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Variance of the requirement that no merchandise may be displayed outside within 300 feet of an R district (Section 1217.C.2); Special Exception to allow automobile sales (Use Unit 17) in a CS Zone (Section 701). This approval is subject to per plan on page 3.15, including the total number of display vehicles to be displayed to 85 as shown on page 3.15. 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. 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; for the following property:

E195 TR 31, GLENHAVEN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21513—Bailey Austin

Action Requested:

Minor Special Exception to reduce the front setback from 30 feet to 25 feet (Section 403); Variance of the required side yard setback from 35 feet to 25 feet (Section 403.A, Table 3). **LOCATION:** 2248 East 25th Street South (CD 4)

Presentation:

Bailey Austin, 2342 South Columbia Place, Tulsa, OK; stated the subject property is located on Lewis Avenue. If the property were a single lot the side yard setback requirement would be such that it would decrease the buildable area. There is a precedent in the area because a lot of the houses in the area have had a reduced side yard so the livable area could be increased.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Minor Special Exception to reduce the front setback from 30 feet to 25 feet (Section 403); Variance of the required side yard setback from 35 feet to 25 feet (Section 403.A, Table 3). Finding that the hardship is this particular lot having the additional setback on Lewis added to it and it will be in alignment with the other houses in the area. This approval is subject to conceptual plan on page 4.8. 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. 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; for the following property:

ALL LT-1-E.45-LT-2-BLK-5, WILDWOOD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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NEW BUSINESS

21532—AMAX Sign Company

Action Requested:

Variance of the 40 foot setback to 30 feet for a directional sign within the right-of-way in the CBD district (Section 1221.C.14). **LOCATION:** 111 North Main Street, Suite E (CD 4)

Presentation:

The applicant was not present.

Mr. Henke stated that Board could act on this case if they wanted. No one on the Board objected.

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 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Variance of the 40 foot setback to 30 feet for a directional sign within the right-of-way in the CBD district (Section 1221.C.14). This approval is conditioned upon receipt of a fully executed license agreement with the City of Tulsa for the placement of the directional sign, and subject to conceptual site plan on page 5.8 and 5.7 for the size and style of the sign. Finding that the need for a informational and directional sign in a development to be a hardship. 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; for the following property:

**ALL LTS 4 & 5 & S40 LT 6 BLK 41, TULSA-ORIGINAL TOWN, CITY OF TULSA,
TULSA COUNTY, STATE OF OKLAHOMA**

21533—Mark Nelson

Action Requested:

Variance to reduce front yard setback from 25 feet to 0 feet (Section 403.A, Table 3).

LOCATION: 221 East 29th Street South (CD 4)

Presentation:

Mark Nelson, 1603 South College Avenue, Tulsa, OK; stated this house is built substantially above the street. The finished floor of the main living area is approximately 18 feet above the street. There is an existing one-car garage that is not used as a garage any longer, but actually acts as a tunnel, and is in a state of disrepair. The home owners would like to take out the existing one-car garage and rebuild a two-car garage with an elevator in the four-story glass atrium allowing the homeowners to pull into the garage and take the elevator to the main living area of the house. Essentially the garage is below grade and there will be a retaining on the street as there is now. There will be two garage doors with an additional personal access door. There will be no change to the steps that are to the east and no change to the atrium that exists on the front of the house. The brick of the home will be matched as closely as possible for the garage.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Variance to reduce front yard setback from 25 feet to 0 feet (Section 403.A, Table 3). Finding that this is actually reconstruction of an existing non-conforming structure that has partially collapsed. This is similar to other properties along this same street coming all the way out to the front property line as part of the living and garage spaces. This approval is per conceptual plan on page 6.7 and 6.9. 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; for the following property:

LT 20 BLK 21, SUNSET TERRACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21534—Roy Johnsen

Action Requested:

Variance of the height limitation from 50 feet to 70 feet to permit a tower with signage (Section 1222.E.1). **LOCATION:** NE/c of North Cincinnati Avenue & I-244 (CD 4)

Presentation:

Roy Johnsen, 1 West 3rd Street, Suite 1010, Tulsa, OK; stated he before the Board today representing Oklahoma State University. They have a campus north of I-244 which encompasses approximately 200 acres, and this particular tract is approximately 2.5 acres. The University refers to this tract as the gateway to the campus. The sign tower will be brick and consistent with the architecture and exteriors of the campus. It is approximately 70 feet above grade and the width will be approximately 20 feet. There will be a sign on each of the four walls of the tower with a maximum of 50 square feet display surface area, but that display surface area will probably not be fully utilized. There is 500 feet of frontage on North Cincinnati Avenue, which is now known as Martin Luther King Boulevard, and under the code there can be two square feet of display surface area for every foot of frontage or 1,000 square feet. The four signs add up to 200 square feet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Variance of the height limitation from 50 feet to 70 feet to permit a tower with signage (Section 1222.E.1), subject to conceptual plan on page 7.6 and 7.7. Finding that this particular location is the gateway, or west entrance of the property, to the Oklahoma State University north campus and the signs will be beneficial for the public. The signage in the conceptual plan will be no greater than 50 square feet for each of the four signs with a width no greater than 20 feet per side. The sign is to be measured at grade up to 70 feet. 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; for the following property:

LTS 1 & 2 & PRT LTS 3 & 4 BEG SECR LT 3 TH W60 N 78.18 CRV RT TO PT E51. 49 S100 POB BLK 1 & LTS 1 & 2 & 13 & 14 BLK 13 & VAC STREETS & ALLEYS ADJ THERETO, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21535—Timothy Murphy

Action Requested:

Variance to reduce the required parking from 7 spaces to 6 spaces (Section 1211.D). **LOCATION:** 3321 East 27th Street South **(CD 9)**

Mr. White recused himself at 1:49 p.m.

Presentation:

Tim Murphy, 3228 East 15th Street, Tulsa, OK; stated there will be an addition to the existing structure on the property to allow for additional office space. By space availability on the lot it would be a physical hardship to reach seven parking spaces. The business that Mr. Murphy owns is a geological consulting laboratory. The addition will be approximately 950 square feet, and will be laboratory and office space for the business. The business is not a retail sales operation and the majority of the trade comes from courier services and UPS drivers that deliver packages. There are very few visitors that come to the business. If the seventh space is going to be required the landscaping and the front porch to the structure will need to be modified.

Mr. Van De Wiele asked Mr. Murphy how many employees he had at the business. Mr. Murphy stated there are two employees plus himself, making a total of three. At the business space he occupies currently on 15th Street and his business only uses three of the parking spaces available at that site.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-1 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; White “abstaining”; Snyder absent) to **APPROVE** the request for a Variance to reduce the required parking from 7 spaces to 6 spaces (Section 1211.D), subject to conceptual site plan on page 8.9. The Board has found that the business that is to be located on the property as renovated and remodeled has three employees and very little, if any, walk-in or drive-in trade. The six spaces to be provided will be more

than adequate to service the facility as renovated. 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; for the following property:

LT 7 BLK 6, KIRKMOORE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. White re-entered the meeting at 1:54 p.m.

21536 – Jim Smith

Action Requested:

Special Exception to allow for a Mini Self-Storage (Use Unit 16) in an RM-2 District (Section 401, Table 1). **LOCATION:** 1313 East 62nd Street South **(CD 2)**

Presentation:

Jim Smith, 504 East Archer, Tulsa, OK; stated that the special exception being requested today is for property that abuts property that is currently owned by U-Haul. This special exception, if granted, would allow U-Haul to expand their facility and their services for the community.

Mr. Van De Wiele asked Mr. Smith to describe a portable storage unit and how it is stacked three high. Mr. Smith stated portable storage is U-Haul's version of a P.O.D. It is portable storage that can be moved from location to location or be shipped across country or across the world. It is a business that U-Haul has ventured into in the last five years and it is expanding greatly. Portable storage is a convenience to customers that need more time for loading for moving. The portable storage is accessible to the customer to access their storage unit to add or remove contents.

Mr. Van De Wiele asked Mr. Smith how the customer accesses the portable unit if it is the third unit on top of a stack. Mr. Smith stated there is a team member that will pull the unit down and sit it on the ground.

Mr. Henke asked Mr. Smith if the units were outside or in a warehouse. Mr. Smith stated the portable storage unit is in a building.

Mr. Van De Wiele asked Mr. Smith if the plan was to build a large building where these storage units are to be set in. Mr. Smith answered affirmatively.

Mr. Henke asked Mr. Smith to describe the proposed building. Mr. Smith stated the proposed building is 4,935 square feet, and once the storage units are stacked three high it adds up to 8,640 square feet of storage. Mr. Henke asked Mr. Smith if he had the specs for the proposed building. Mr. Smith stated that he did not have them at this time, but the building would be built to code.

Mr. Van De Wiele asked Mr. Smith if the building would be a steel building or look like a steel building. Mr. Smith stated that it would but that the actual design had not been determined as of yet, though the building would be designed to fit into the community.

Mr. Tidwell asked Mr. Smith to give the height of the building. Mr. Smith stated that the building would need to be 23 feet based on the stacking of the portable storage units because the units are seven fit tall.

Interested Parties:

Ted Bateman, 509 West Dallas Street, Broken Arrow, OK; stated he represents the ownership of Casa Linda Apartments, which is adjacent to the subject property. Mr. Bateman's client purchased the Casa Linda Apartments when they were greatly delapidated and has spent in excess of \$800,000.00 improving the apartments. There has been a great deal of money invested into the area and the owner hopes that the example will carry on to the 61st Street and Peoria area. Mr. Bateman feels this U-Haul proposal would be detrimental to the Casa Linda Apartment investment. A building such as the one being proposed would hide the apartments and 62nd Street is a very narrow residential street. Across the street from the apartments is a Warehouse Market which creates traffic congestion, and he thinks U-Haul would increase the traffic congestion. Mr. Bateman also thinks the U-Haul business would not fit into the residential mode of the area and would be detrimental to the appearance of Casa Linda Apartments which could affect the ability to rent the units creating a hardship on the owner.

Mr. Tidwell asked Mr. Bateman how people entered the apartment complex. Mr. Bateman stated the entry is from 62nd Street. The apartment entrance is directly across the street from Warehouse Market loading dock on 62nd Street. Mr. Bateman stated that he was the court appointed receiver of the 57 unit complex when the current owner purchased the property from Spirit Bank. When the current owner purchased the property there were 15 occupied units at the time of the purchase and now there are 40 units occupied, and the units are being rented as quickly as they become available.

Rebuttal:

Mr. Smith came forward that U-Haul would adhere to the City's required setbacks. U-Haul knows from experience that the storage business creates very little traffic. When belongings are stored people do not visit their belongings or come to the unit very often, U-Haul's philosophy is to fit into a neighborhood and to be a pillar of the community. The

buildings are designed at U-Haul's own facility in order to be attractive and fit into the neighborhood. There are six facilities in Tulsa, with one of them being directly across the street from Driller's Stadium. The facilities are continuously updated in order to be attractive and not have a negative impact in any way. The subject property had apartment complexes on it previously and U-Haul believes in landscaping their facilities to also help them to fit into residential areas.

Mr. Van De Wiele asked Mr. Smith why the site on the subject property was chosen, why not place the proposed building at another site on the subject property? Mr. Smith stated U-Haul chose that site because there is an active drive on 62nd Street and they wanted to utilize that drive. On the initial design there were 21 parking spaces for customers so they could access their storage.

Mr. White asked Mr. Smith where the storage unit would be placed for a customer to access the unit. Mr. Smith stated the storage unit actually goes into a field and is stacked on top of another unit, and there is a staging area inside the building where the customer can access their storage unit for viewing.

Mr. Van De Wiele asked Mr. Smith for the dimensions of the storage units. Mr. Smith stated the storage units are 7'-6" x 5'-0" x 7'-0". They are small storage units and are able to fit in the back of a semi sideways.

Mr. Tidwell asked how many customers could access their storage unit at the same time. Mr. Smith stated that three or four, but it would not be that many customers at one time. From experience, covering the last three years at the 11th and Memorial location, people that use this type of storage there is an intent to ship it somewhere, or U-Haul is the receiver. Rarely is there a customer that wants access to a storage unit but that service is available to a customer.

Mr. Tidwell asked Mr. Smith if customers would rent a permanent facility instead of a portable storage unit if they are going to have traditional storage. Mr. Smith answered affirmatively.

Mr. Henke asked Mr. Smith if he knew who the architect is for the proposed building. Mr. Smith stated that he did not know at this time, but U-Haul does have a design department that designs the facilities.

Mr. Van De Wiele asked Mr. Smith if the proposed model was currently in use in Tulsa. Mr. Smith stated that it is, at 11th and Memorial Drive.

Mr. Tidwell asked Mr. Smith if it was necessary to use the 62nd Street access because he would like to see the apartments left alone as much as possible. Mr. Smith stated that he believed U-Haul would need that access. The City has just taken a part of the property to widen 61st Street and widen Peoria Avenue making the actual lot smaller.

Mr. Van De Wiele stated that he understands the apartment complex's view point. It does seem like the U-Haul proposed building is right out there in your face. It would be more palatable if the proposed building were tucked into the northwest corner of the lot. He would like to see what the proposed building would look like.

Mr. Henke asked Mr. Smith how quickly a rendering with elevations, size dimensions, etc. could be brought back to the Board. Mr. Van De Wiele asked Mr. Smith if the proposed building would look like the facility that is located at 11th and Memorial Drive. Mr. Smith stated the design would be slightly different and the imaging would be slightly different because U-Haul attempts to design a building that fits into the surrounding area of the building site.

Mr. Henke asked Mr. Smith if he could come back to a future meeting with a rendering of the proposed building. Mr. Tidwell asked Mr. Smith to discuss with the architect about moving the proposed building to the northwest corner of the subject lot. If the intent is to grow other buildings onto the lot, he would rather see the first facility be placed at the back and the business grow forward.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **CONTINUE** the request for a Special Exception to allow for a Mini Self-Storage (Use Unit 16) in an RM-2 District (Section 401, Table 1) to the Board of Adjustment meeting on March 26, 2013; for the following property:

E146 W316 LTS 7 & 8 BLK 1, AMBASSADOR MANOR RSB PT PEORIA PLAZA & VALLEY VIEW & VALLEY CTR, PEORIA PLAZA RESUB L2 B1, VALLEY VIEW ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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OTHER BUSINESS

General Policies Discussion

Current:

~~The Board shall require an official Letter of Deficiency from the City of Tulsa permit office to accompany applications for Variance or Special Exception. The Letter of Deficiency shall relate completely to the relief sought in the application. In substitute to a Letter of Deficiency, an applicant may cite all applicable~~

~~sections of the Code for which the request(s) is being made on the application.
(11.14.08)~~

Proposed Modification:

An official "Letter of Deficiency" issued to the Applicant from the City of Tulsa ("LOD") shall accompany each application to the Board for a Variance, Special Exception or other relief, provided that the Board Staff may waive the requirement that an "LOD" accompany an application when in the opinion of the Board Staff it is deemed unnecessary. Where the requirement has been waived, the Applicant shall be responsible for citing in the application the necessary relief and the sections of the Zoning Code pertinent to that relief. The waiver of the requirement that an "LOD" accompany the application shall not be considered a waiver of the necessity to apply for a building permit or a zoning clearance permit, as may be required by the particular proposed use or construction.

Ms. Back stated the reason this is being brought to the Board's attention is that staff has noticed that the previous citing encouraged the applicant to obtain a Letter of Deficiency (LOD) but did not give staff the permission to require a LOD. There are instances where staff really needs to require the applicant to obtain a LOD from the City because the case is very complicated or involved. There are also instances where the applicant does not know the Code well enough to be able to find the specific sections in the chapters of the Code that apply to the relief being requested. Therefore, staff is requesting the Board to consider changing the policy to enable staff to assist applicants more accurately and co-ordinate with the City of Tulsa. Staff this would also alleviate the burden of continuing cases as frequently for relief that was not requested.

Board Discussion:

Mr. Henke stated that what Ms. Back said made sense to him. He asked the other Board members if they had received the e-mail Mr. Steve Schuller that he had received. Mr. Henke thought Mr. Schuller had a good recommendation. Mr. Schuller suggested that the Board authorize staff to waive the LOD requirement whenever an Attorney files a BOA application expressly predicated on the attorney's certification that all required relief is being requested. Mr. Henke stated that he is not a fan of red tape and he does not like the idea of the Board of Adjustment frustrating business in Tulsa, Oklahoma. But he does see both sides point of view. Mr. Henke stated that he would tend to agree with Mr. Schuller's recommendation that the exception be added for attorneys filing cases who are responsible for their clients.

Ms. Miller stated there are other applicants who are planners, architects and design professionals because the suggestion is pretty narrow. Mr. Henke agreed, and stated that Mr. Schuller just wants to avoid the frustration of business. Certainly by broadening licensed architects and other design professionals would be agreeable.

Mr. Van De Wiele stated that compared to what the Board currently has in place, if the Board were to accept the proposed language without the changes being discussed it gives the staff more leeway to say the applicant must obtain a LOD.

Ms. Back stated that the proposal gives staff leeway both ways. It gives the staff the authority to say that the applicant is required to obtain a LOD. Or it gives staff the authority to waive the LOD requirement.

Mr. Van De Wiele asked Ms. Back if this proposal was aimed at reducing the number of continued cases because the applicant did not ask for enough relief. Ms. Back stated that it is aimed at that. It will also help when an applicant does not know what they need and staff needs to tell the applicant what is needed. Staff then must try to coordinate with the applicant and the City, but yet it is not coming together. It is better for staff to request the applicant to go to the City and request a zoning clearance permit, and from that the Letter of Deficiency is produced.

Ms. Miller stated that staff does not want applicants to come before the Board, and then when they submit for the permit they are told that additional relief is needed.

Mr. Henke stated that he understands that, and it does consume the Board's time to hear cases.

Ms. Back stated that staff believes that what Mr. Schuller is pointing out is covered in the proposed change, it just does not specify attorney. The proposed change gives staff the authority to waive the requirement for anyone. If the proposed change elicits titles on whom may be waived then staff is limited in their professional decision. Staff would like the statement to be broad so that staff may waive the LOD for anyone that applies for relief, as long as staff deems the applicant is asking for everything they need.

Mr. Henke stated that he understands that statement, but Mr. Schuller wants to be able to help his client and be waived from the LOD requirement at his own risk.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the request for a Modification of the General Policies for the City of Tulsa Board of Adjustment, to modify the language regarding the Letter of Deficiency presented to the Board and submitted on page 10.1 and 10.2 in the Board's agenda packet.

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NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 2:25 p.m.

Date approved: 2/26/13
Frank X. Hernandez, IV
Chair