

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1110
Tuesday, February 11, 2014, 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 6, 2014, at 11:14 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.

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 informed the audience that he would be recusing himself from Mr. William Grimm’s case, Item #3 on the agenda, thus leaving only three Board members to vote on that item. Mr. Henke asked the applicants if they understood and asked the applicants what they would like to do. The applicants nodded showing their understanding and no one requested a continuance.

MINUTES

On **MOTION** of **TIDWELL**, the Board voted 4-0-0 (Henke, 4 Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the **Minutes** of the January 28, 2014 Board of Adjustment meeting (No. 1109).

UNFINISHED BUSINESS

21672—Harvey C. Grauberger

Action Requested:

Variance to reduce the rear yard setback from 20 feet to 10 feet in the OL District (Section 403.A, Table 3). **LOCATION:** 4830 South Zunis Avenue **(CD 9)**

Presentation:

Harvey Grauberger, 1500 South Utica Avenue, Suite 400, Tulsa, OK; stated he is representing Stephen Plunk, the property owner for the subject property. The zoning ordinance for this piece of property creates an unnecessary hardship, specifically because of the dimensions of the lot and setbacks that are applied to it. The east side of the lot has a cul-de-sac curve which has a corresponding setback of 12 feet. The southern boundary is subject to a 15 foot setback and there is an inward slope in the back yard. The rear setback on the western side of the lot is 20 feet and that is the side the Variance is being requested. There is a sanitary storm sewer that runs through the southwestern side of the subject property. These conditions do not affect the neighboring lots and are only unique to the subject property. The issues of the boundary line and the way lot is drawn restricts the ability to build a structure of sufficient size to satisfy the Bolewood Place Home Owner's Association. As the setback stands currently there is a loss of approximately 1,000 square feet of land for building a house on the subject property. The proposed home and pool, as is drawn and presented to the Board in their agenda packet, will be sufficient to satisfy the Bolewood Place Home Owner's Association and their architectural committee. Any reduction of the proposed home will probably not be approved by the Bolewood Place Home Owner's Association, and for that reason the applicant is requesting a Variance. Reducing the setback to 10 feet will provide sufficient square footage to build the residence and will allow for the construction of the proposed pool on the subject property. The granting of this Variance will not create a detriment to the public. Other lots in this subdivision are set back only ten feet, and there are currently 27 houses in the Bolewood Place Subdivision and 19 of those houses have the 10 foot rear setback. To change this lot to a ten foot setback will bring the subject property into conformity with the rest of the subdivision. The granting of this Variance request will enhance the value of the subject property and the neighboring properties.

Mr. White asked Mr. Grauberger if the storm sewer was going to be rebuilt. Mr. Grauberger stated the dash line on the drawing is the proposed sewer line in the event the Variance is approved.

Mr. Tidwell asked Mr. Grauberger if the homeowner's association had approved the proposed plan for the subject property. Mr. Grauberger answered affirmatively.

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 to reduce the rear yard setback from 20 feet to 10 feet in the OL District (Section 403.A, Table 3), subject to conceptual plan 2.16 noting the western boundary is the rear yard setback in question. Finding the subject property is unique in size and shape, and 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 5 LESS N30 THEREOF BLK 3, BOLEWOOD PLACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

21677—William Grimm

Action Requested:

Variance of required parking for Use Unit 14 from 40 parking spaces to 21 parking spaces in a CH District (Section 1214.D). **LOCATION:** 3340 South Peoria Avenue East **(CD 9)**

Mr. Henke recused himself and left the meeting at 1:13 P.M.

Presentation:

William R. Grimm, Attorney, 110 West 7th Street, Suite 900, Tulsa, OK; stated he is representing individuals who have a contract to purchase the subject property, which is known as the Ivy Nightclub. The property will be going from a Use Unit 12A down to a Use Unit 14 for commercial retail purposes or a department type store. The prior operator had a Special Exception and a Variance from the Board of Adjustment to go from 100 parking spaces for the nightclub to their allocated share of the undivided interest of one third of the parking lot immediately the subject property. The applicant currently has the subject property under contract and will convert the building from a nightclub to a commercial retail use. The hours of operation will be probably be from 10:00 A.M. to 9:00 P.M. The present architectural plans for the subject building is to install a second story on top not larger than 1,525 feet, which will be used primarily for office and storage purposes. That will make 9,000 feet at 225 square feet per parking space thus needing 40 parking spaces, and that is the reason for the Variance request to 21 parking spaces. The subject property has an undivided one-third interest in 63 parking spaces.

Ms. Back stated that the number 1,525 square feet that was mentioned should be 1,575 square feet for a total of 9,000 square feet.

Mr. Grimm stated that the hardship for this property is that the parking lot has been in existence for several years. A Board of Adjustment hearing was held in 1966 which allowed the use of the property for parking purposes for one of the identified properties, and the parking lot has changed ownership over the years. Mr. Grimm presented the Board with a copy of Use Conditions stipulating that the subject property owner will have one-third undivided interest in the entire adjoining parking lot.

Mr. Van De Wiele asked Mr. Grimm if the applicant he represents will have a business that requires less parking than the previous business use. Mr. Grimm answered affirmatively.

Interested Parties:

Matt Christensen, Doerner and Saunders, 2 West 2nd Street, Suite 700, Tulsa, OK; stated he represents the Trust Company of Oklahoma, which is Senor Tequila's located at 34th and Peoria Avenue. The restaurant Senor Tequila's also owns one-third interest in Lot 21. He would like to express for his client, that they do not oppose the Use Variance. The parties have been in discussion as Mr. Grimm stated, and as a one-third owner they cannot consent to any change unless the amended use conditions be accepted as presented today.

Steve Mathis, Smakal Munn and Mathis, 320 South Boston, Suite 718, Tulsa, OK; stated he represents Kirby Pierce which the other one-third interest owner in the subject parking lot. If the use conditions as submitted today are approved there will be no objections.

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 required parking for Use Unit 14 from 40 parking spaces to 21 parking spaces in a CH District (Section 1214.D), subject to the Use Conditions submitted at today’s hearing, February 11, 2014 and the conceptual site plan 3.20. Finding that the change of use of the property to be a lesser burden from the parking standpoint than the prior approved nightclub use. 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:

N49.5 LT 19 LESS E25 FOR ST BLK 1, BURGESS ACRES ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Henke re-entered the meeting at 1:23 P.M.

19047-A—Weldon Bowman

Action Requested:

Modification to a previously approved site plan (BOA-19047) to add an auto-detailing/window tinting use/structure (Use Unit 17) to an existing car wash facility (Section 701, Table 1). **LOCATION:** 7919 East 101st Street South **(CD 8)**

Ms. Back stated that a new site plan has been submitted and a new letter of deficiency has been submitted since the Board’s agenda packet has been mailed and received.

Presentation:

Shane Hood, W Design, 1513 East 15th Street, Tulsa, OK; stated the previous case BOA-19047 was approved in 2001 allowing a automobile car wash in a shopping center district. The project will include the construction of a 3,530 square foot building on the subject property, and it will include four bays used for car detailing which is Use Unit 17 and one window tinting bay, which is a Use Unit 14. The addition of the window tinting bay will require the addition of two parking spaces, and there have been seven parking spaces provided on the site. Two of the parking spaces are required and five of the parking spaces are for automobiles waiting for detailing services. Currently the owner

of the property, Nelson Mazda, have their employees bring the dealership autos from the dealership to the car wash, wash the car, and take them back to the dealership where the detailing will occur. Now Nelson Mazda would like to move the auto detailing process to the subject property site, and then take the car back to the dealership after the complete detailing process. There will be no employee automobiles on the subject property because they will be parking at the dealership location. There will be no increase in traffic because the dealership is already bringing cars to the subject property. The dealership is open to the public so it will allow the public to bring personal autos in for detailing or to have the windows tinted. The building requires the vacation of an utility easement, and that application has been submitted. It has been approved by City of Tulsa department head, the Assistant City Attorney, and the Mayor. It has also undergone a second reading at the January 30th City Council meeting, and the subject property owner is waiting for the final approval. In addition to the mailings that were sent by INCOG, W Design sent out no less than two letters from the same mailing list that was provided by INCOG. Last night at 6:00 P.M., at The Hamlet located at 91st and Sheridan, no one had contacted them with any questions, comments or concerns about the project and there were no attendees at the meeting. The detailing center will provide an amenity to the surrounding area who now drive their vehicles across town to have their automobiles detailed. The construction of the proposed detailing center will provide a structure that will shield the neighborhood from the sounds of the existing vacuums, which was an initial concern in the original case. Nelson Mazda, the owner, is willing to complete the landscaping that was not completed but yet was one of the conditions placed on the former approval.

Mr. White asked Ms. Back if the zoning clearance plan review that was submitted today along with the revised plans had been checked. Ms. Back stated they are in accordance. She was working with W Design and the City Development Services Department to make sure the client could park the site and everything was in compliance with code.

Mr. Van De Wiele asked if all the detailing and window tinting was going to happen inside the new proposed facility. Mr. Hood answered affirmatively.

Mr. Tidwell asked if the vacuuming was going to take place in the new facility. Mr. Hood stated that the vacuums shown on the rendering are existing, but there will also be vacuuming done inside the new bays.

Interested Parties:

Karen Forbes, 9957 South 79th East Avenue, Tulsa, OK; stated she lives in Audubon Park that backs up to the subject property. Ms. Forbes stated that the only notice she received regarding today's meeting was from INCOG. Ms. Forbes also stated that a lot of the neighbors, that she spoke to, were unable to attend today's meeting, and she will be representing them. Ms. Forbes presented a picture of the existing car wash she had taken from her back yard. Ms. Forbes stated that the current noise level is high, and she has had neighbors tell her that they cannot hear themselves speak just from the noise generated by the car wash especially on weekends. The landscaping provided

have provided by other tenants in the area and the neighbors have planted trees to block and shield the car wash as much as possible. She stated she has had her house on the market for almost a year and has not been able to sell because of the car wash. The car wash lighting is another concern. There are no shields on the bays so when cars are using the bays in the evening the lights shine into the homes that back up to the car wash. She opposes today's request because she does not think that a situation that is not good be made worse by another structure for the same type use. When this case was originally approved the applicant at that time was very agreeable to shielded lighting and landscaping, and there is none of that. The car wash is a detriment to the neighborhood.

Mr. Van De Wiele asked Ms. Back what were the requirements for the landscaping in the original case. Ms. Back stated that she will check the meeting minutes in the Board's agenda packet, but she believed it is 10% as normal. Mr. Van De Wiele asked if that is 10% of the property as they are looking at it or the panhandle property shown on page 4.9. Ms. Back stated the picture on page 4.9 is the north end of the applicant's property so it is quite a bit lower than the property to the north. The curb is the property line. Ms. Back stated that she had done a considerable amount of research on the subject property, and it was realized that the landscaping had never completed by the previous owner. The current owner is more than willing to bring the subject property into compliance with the code. Mr. Van De Wiele asked where the plantings would be placed because looking at the picture on 4.7, it is almost all concrete. Ms. Back stated the applicant would need answer the question.

Mr. Van De Wiele asked Ms. Forbes if the applicant were to install a fence along the north and west side of the subject property, would it be better for her. Ms. Forbes stated that would be great but in practicality how tall would the fence need to be? Ms. Forbes thinks the elevation between her property and the subject property is 28 feet.

Ms. Back stated that she and the applicant had spoke about installing a fence to protect the subject property from liability of the storm water drainage, so she suggested the Board question the applicant further about the fence and possibly changing the paint scheme of the car wash for the neighbors.

Mr. Swiney stated that on pages 4.4 and 4.5, the minutes from the original case, on page 4.5 there are suggested litigation factors for exhaust on the vacuums and the 10% landscaping, lighting to be shielded which are mitigating factors the Board was discussing today. Mr. Van De Wiele stated that he does see how the northwest corner of the subject property can be landscaped sufficiently, which is the corner referred to in the minutes of the original case.

Rebuttal:

Mr. Shane Hood came forward. The applicant owns the property where the detention pond is located, so he has plans to landscape that property as well. He would prefer to do landscaping with trees and bushes for a screen than a potential actual wall. Mr. Hood stated the existing lighting was installed by the previous owner in 2001 but the

lighting that is being proposed for the new addition will be wall packs placed over each exterior door, and Mr. Hood presented the Board with catalogue sheets. The wall packs will have shields on them that will illuminate the ground immediately in front of each door. There will also be soffet cans that will illuminate the bay doors.

Mr. Henke asked Mr. Hood about the existing blue painted roof. Mr. Hood stated the owner would prefer not to paint because that is the color the roof has been for 13 years and has become the brand of the car wash. The trees that will be planted will help with the noise mitigation, and the proposed building will block a major portion of the noise. The vacuum system on the east side of the subject property are existing, and any new vacuum systems will be inside the new proposed building.

Mr. Henke asked Mr. Hood how quickly he thought a landscape plan could be formatted for presentation to the Board. Mr. Hood stated that he could have a landscape quickly. Mr. Van De Wiele agreed with Mr. Henke, he would like to see a detailed landscaping plan especially since the original landscape requirements were not installed. He would also prefer to see a substantial landscape planting in the northwest corner than a board fence that will only look good a few years.

Mr. White stated he would like to see the lighting deflected. Mr. White stated the previous conditions were rather skimpy and the only thing truly established was that the vacuums would be on the east property line.

Mr. Van De Wiele stated that he did not think the new facility would be a detriment but be good because it would block the view of some of the neighbors. It would also deflect a portion of the sound.

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 **CONTINUE** the request for a **Modification** to a previously approved site plan (BOA-19047) to add an auto-detailing/window tinting use/structure (Use Unit 17) to an existing car wash facility (Section 701, Table 1) to the Board of Adjustment meeting on February 25, 2014; for the following property:

Lot 1, Block 1, Cab addition, an addition to the City of Tulsa, Tulsa County, Oklahoma, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21679—Joseph L. Hull

Action Requested:

Spacing Verification for a liquor store (Use Unit 14) in the CBD from blood banks, plasma centers, day labor hiring centers, other liquor stores, and pawn shops (Section 1214.C.3). **LOCATION:** 901 South Elgin Avenue South (Applicant Space: 401 East 11th Street) **(CD 4)**

Presentation:

Joseph L. Hull, IV, 2924 South Detroit Avenue, Tulsa, OK; stated he is representing Modern Spirits a purveyor of fine wines and spirits. The store is proposed to open in the historic Warehouse Market building.

Mr. Henke stated the Board is in receipt of the applicant's survey.

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) based upon the facts in this matter as they presently exist to **ACCEPT** the applicants request for a Spacing Verification for a liquor store from blood banks, plasma centers, day labor hiring centers, other liquor stores, bail bond offices and pawn shops subject to the action of the Board being void should another referenced conflicting use be established prior to this liquor store; for the following property:

Lot 1, Block 1, Cab addition, an addition to the City of Tulsa, Tulsa County, Oklahoma, 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 1:50 p.m.

Date approved: 2/25/14

Francis X. Hill
Chair