

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1128
Tuesday, November 12, 2014, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street
Tulsa, Oklahoma 74103

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Henke, Chair Tidwell, Secretary White, Vice Chair	Snyder Van De Wiele	Miller Moye Foster Sparger	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, November 6, 2014, at 12:40 p.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. Moye read the rules and procedures for the Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **TIDWELL**, the Board voted 3-0-0 (Henke, Tidwell, White "aye"; no "nays"; no "abstentions"; Snyder, Van De Wiele absent) to **APPROVE** the **Minutes** of the October 28, 2014 Board of Adjustment meeting (No. 1127).

Mr. Henke explained to the applicants that there were only three 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 all three board members to constitute a majority and if one board member 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 nodded their understanding and no one requested a continuance.

UNFINISHED BUSINESS

21779—Redline Contractors

Action Requested:

Special Exception to allow metal recycling (Use Unit 28) in an IM District (Section 901). **LOCATION:** 2476 North Lewis Avenue **(CD 1)**

Presentation:

Ms. Moyer informed the Board that the applicant had withdrawn his case today.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No action required at this time; for the following property:

W205 E245 S125 N/2 NE NE NE SEC 30 20 13 .588AC; S/2 NE NE NE LESS 1.35ACS FOR RDS SEC 30 20 13 3.65ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

21797—CBC Builds, LLC

Action Requested:

Variance to reduce the permitted livability space from 4,000 square feet to 3,846 square feet (Section 403.A, Table 3). **LOCATION:** 1037 East 37th Place **(CD 9)**

Presentation:

Ms. Moyer announced that staff is requesting a continuance to the December 9, 2014 Board of Adjustment meeting to allow City Legal to review this case further.

Interested Parties:

Herb Beattie, 3474 South Zunis Avenue, Tulsa, OK; stated he is representing the Brookside Neighborhood Association. He is glad this case is being continued because he has tried to find out whether a permit had been granted and if so by whom so he could contact whoever issued the permit. Not only is the subject house existing but immediately to the east of the subject house there is another house that appears to be

in violation. The neighborhood is very concerned about this because it is a neighborhood of stabilization.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Tidwell, White “aye”; no “nays”; no “abstentions”; Snyder, Van De Wiele absent) to **CONTINUE** the request for a Variance to reduce the permitted livability space from 4,000 square feet to 3,846 square feet (Section 403.A, Table 3) to the Board of Adjustment meeting on December 9, 2014; for the following property:

LTS 16, BLK 1, RIVERLAWN ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21798—Darshan Patel

Action Requested:

Verification of the spacing requirement for a liquor store from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3). **LOCATION:** 4508 South Peoria Avenue **(CD 9)**

Presentation:

The applicant has withdrawn this case.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No action required at this time; for the following property:

BEG 628.16S & 50E NEC E/2 SE NE TH W9.5 N45.2 W31.17 N12.31 W135.89 S9.00 SE20.78 W10.97 SE20.78 S12.52 W6.14 S191.09 E172.29 POB SEC 25 19 12 1.014ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Swiney asked for a Point of Order. There was a letter received pertaining to Item #8 on the agenda, and he asked if the Board would like to take the case in order or address it now. Mr. Henke stated that it can be addressed now.

Mr. Swiney stated that Item #8, Metro Mechanical Supply, has a letter that was just received from the law firm of Ladner & Eldredge, who represents an interested party, a neighbor of Metro Mechanical Supply. They cite irregularities about the public notice but in any event they request a continuance, because the interested party's attorney is out of town on family business and the other attorney is not available. Mr. Swiney think it would be appropriate for the Board to consider a continuation.

21799—Metro Mechanical Supply

Action Requested:

Variance to reduce the permitted setback from the centerline of East 47th Place from 50 feet to 40 feet in the IL District (Section 903, Table 2). **LOCATION:** 9900 East 47th Place (CD 7)

Presentation:

Curtis Kelsey, 6220 South 101st East Avenue, Tulsa, OK; stated that this complaint with the neighbor is that water is backing into his building. Metro Mechanical has changed nothing. The way the drainage system was installed by the City for the stormwater management with retention ponds, they installed a system where everything drains into drainage ditches and culverts.

Mr. Henke stated the Board does not deal with drainage issues. Mr. Kelsey stated the only reason the neighbor has water in his building is because the culvert 50 feet from his building is completely blocked. Mr. Kelsey stated that he has attempted to explain this to the neighbor. He stated that Metro Mechanical has changed nothing but what is being done is on the far side of the building no where near the neighbor's property. Mr. Kelsey stated the neighbor is asking for this continuance to be ugly. Mr. Kelsey offered to give the Board pictures of the area.

Mr. Henke stated the Board does not deal with drainage issues but offered to accept the pictures if Mr. Kelsey wanted to submit them. There is a request for a continuance by an interested party. Mr. Kelsey stated that he has plans submitted and he is trying to erect an addition, and the neighbor is irritated over something that is not related to the project so how long can he continue to impede the project's progress. Mr. Henke stated this can be continued to the next Board of Adjustment meeting on November 25th.

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, Tidwell, White "aye"; no "nays"; no "abstentions"; Snyder, Van De Wiele absent) to **CONTINUE** the request for a

Variance to reduce the permitted setback from the centerline of East 47th Place from 50 feet to 40 feet in the IL District (Section 903, Table 2) to the Board of Adjustment meeting on November 25, 2014; for the following property:

LTS 1 THRU 10 & LTS 17 THRU 19 & VAC ALLEY BLK 27, ALSUMA, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

UNFINISHED BUSINESS

21786—Global Sign Solutions

Action Requested:

Variance to allow more than one (1) sign per street frontage in an OL District to permit two (2) signs (Section 602.B.4.b); Variance to increase allowed display surface area from 32 square feet to 55 square feet to permit two (2) signs (Section 602.B.4.c). **LOCATION:** 3820 East 51st Street South **(CD 9)**

Presentation:

Abolfazi Ahmadian, 17424 South Union, Mounds, OK; stated that he measured the chiropractic sign at 18 feet 3 inches, but the sign is recorded with the City as a 35 square foot sign. That is a mistake that he does not know how to rectify.

Mr. Henke asked Mr. Ahmadian if he is disputing the City. Ms. Miller stated that there was another Variance added to the original request for the size, and that was part of the continuance. The Development Services reissued a Letter of Deficiency and presented the dimensions.

Mr. Henke asked Ms. Miller if the Board should be comfortable with the dimensions that have been provided. Ms. Miller stated that she definitely believes the sign is closer to 32 square feet than 18 square feet.

Mr. Ahmadian stated that for the past 18 months the committee has approved five cases, #21349 which had two signs with an LED that was approved; #21726 the same procedure; #21359 same procedure. There were five cases of which all were approved. All these cases were requesting extra square footage, they were asking for two signs, and they were at least three times than what is being asked for today.

Mr. Henke stated that the cases quoted are not before the Board today because they are not in the staff report as being relevant to this case. Mr. Henke asked Mr. Ahmadian to state a hardship that is not self imposed. Mr. Ahmadian stated the hardship is visibility.

Interested Parties:

Chris Lile, 5832 South Hudson Place, Tulsa, OK; stated he is doing a lot of marketing in the area, and being a presence in the neighborhood is letting the people know that he is close. His office has been open for a few months and people are having a hard time locating the office, even if they are given directions to the office. There is no marketing appeal without the sign.

Mr. Henke asked Mr. Lile if the signage was addressed in his lease. Mr. Lile answered affirmatively. His lease states that he has 20 square feet of signage. His landlord stated that he was under the impression that he had 32 additional square feet to give away, as told to him by another sign company and his realtor. Mr. Lile stated that his proportionate share of the square footage of the building left him with 20 of the 32 square feet. His landlord also told him that he thought his sign was 18 square feet. Mr. Lile stated that he has a letter from the landlord stating that he would be agreeable to give whatever is left and will not be operating any exterior signage on the roof of future tenants unless it is replacing a sign. Mr. Lile stated that he and the landlord are the only tenants in the building currently. Technically there are two other places in the building.

Mr. Henke stated that he is glad Mr. Lile had the signage addressed in his lease, but a visibility hardship is not a valid reason for him. He believes Mr. Lile and the landlord need to divide up the available square footage that is allowed for the building.

Mr. Lile stated he is agreeable with a 12 foot or 10 foot sign. He just wants something on the building so when people drive by they will easily locate his office.

Mr. Henke asked Mr. Lile if he had any discussion with the City on the measurements of the existing sign. Mr. Lile stated that he spoke Bob and he thinks Bob stated that the measurements seemed wrong to him and would check it. Ms. Miller stated that the Letter of Deficiency that was reissued, page 3.12 in the Board's agenda packet, Mr. Bob Kolibas a Plans Examiner, stated there is a currently a 35 square foot Husky Chiropractic wall sign. That is when Mr. Kolibas researched the permit that was issued and the dimensions mentioned are listed on the permit.

Mr. Lile asked what kind of evidence he would need to contest the statement that is on record with the City. Mr. White stated that he has concerns of the Board getting into a continuing situation where a property owner has multiple spaces with signage attached to them. He would like to have guidance on how to minimize the effect in a similar situation as this. Mr. Henke stated that in the Husky Chiropractic sign they were issued a permit for the size of sign they said they were going to install. Maybe the Husky Chiropractic sign needs to come down and a smaller sign erected in its place, but that is for the two parties to work out. Ms. Miller stated that if in fact the landlord disputes that the sign is 35 square feet he needs to work that out with the Permit Office.

Mr. White asked if the Permit Office should be brought into this case at some point since they stipulated the size of the sign. Mr. Tidwell stated that he thinks it would be wise to request a continuance for this case.

Mr. Swiney stated that Mr. Lile's issue is with his landlord. The landlord should be involved in this request as well.

Ms. Miller stated that the subject property is zoned OL which the intent is to have a very quiet presence next to a neighborhood, and not a lot of signage. That is why sign requirements are so restrictive.

Mr. Ahmadian stated that at the same time, there have been five cases all of which have been approved and they have an LED on the sign, and they have no hardship. Mr. Henke asked Mr. Ahmadian if all the cases he was quoting were in an OL District. Mr. Ahmadian answered affirmatively. Mr. Henke stated the Board will be happy to review the mentioned cases if he will request a continuance to the Board of Adjustment meeting on November 25, 2014.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Tidwell, White "aye"; no "nays"; no "abstentions"; Snyder, Van De Wiele absent) to **CONTINUE** the request for a Variance to allow more than one (1) sign per street frontage in an OL District to permit two (2) signs (Section 602.B.4.b); Variance to increase allowed display surface area from 32 square feet to 55 square feet to permit two (2) signs (Section 602.B.4,c) to the Board of Adjustment meeting on November 25, 2014; for the following property:

E155 W660 S125 N175 NE NW SEC 33 19 13 .44AC, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21789—Kevin Vanover

Action Requested:

Variance to reduce the total number of required off-street parking spaces for a new classroom addition to 645 spaces (Section 1201.D). **LOCATION:** 2906 East 41st Street (**CD 9**)

Presentation:

Kevin Vanover, Impact Engineering, 109 North Birch Street, Owasso, OK; stated there were several issues brought up at the last meeting and he would like to address them. He went out and physically counted the existing parking spaces as they exist today, and they are shown in the exhibits presented to the Board. The count was actually 624 parking spaces and not 635 as brought out in the last meeting. Several things have attributed to the reduction of spaces. One of which will be discussed by Mr. Bob LaBass. Maintenance has restriped some of the areas blocking them out for bus pick ups. He has redesigned some minor modifications to the site which has occurred on

the east parking lot. With those changes it brings the parking lot total to 652 parking spaces which is in excess of the 645 parking spaces originally requested. Another issue discussed previously was the use of the fire access road on the western boundary for scrimmage which was a one time occurrence.

Mr. Henke asked Mr. Vanover if he meant annually when he said a one time occurrence. Mr. Vanover stated that it was scrimmage that took place on what is now the new soccer field, and it was on a weekend.

Mr. Vanover stated that he would have the Chief of Police of the schools address the enforcement.

Interested Parties:

Bob LaBass, Tulsa Public Schools, 3027 South New Haven, Tulsa, OK; stated that it sounds like there was a communication issue, especially on Florence. It is not so much the athletic programs that are filling the parking lot, it's is that people don't want to park on the west side. One issue the school has is the neighborhood needing a number to call and that will be provided to them.

Robert Swain, Chief of Police for Tulsa Public Schools Campus Police, 3027 South New Haven, Tulsa, OK; stated he was the Commander for the Denver Public Schools and he understands parking problems and is sensitive to the problem. He went to Edison and looked at the campus, and noticed the lack of a telephone number. He will have a telephone number placed on the street signs for the neighborhood. Another issue is to have a more aggressive enforcement in the subject areas.

Mr. Henke asked Mr. Swain to explain the terms of his enforcement, can tickets be issued. Mr. Swain stated that he will get with the City of Tulsa to obtain the right to write a traffic ticket for parking or handicap enforcement.

Mr. White asked if that would be for the city streets in addition to the parking lot. Mr. Swain answered affirmatively.

Mr. White asked Mr. Swain how he will deal with the issue of the parking. Mr. Swain stated that one of the things that has to be looked at is when there are events staffing must be addressed.

Mr. Henke asked Mr. Swain how many he officers he had reporting to him. Mr. Swain stated the department has 57 officers with 32 of them assigned to schools for patrol duty.

Mr. Tidwell asked Mr. Swain to elaborate on the telephone number that would be placed on the signs for the neighborhood. Mr. Swain stated that the number would be for the communication center which has its own dispatch. This allows dispatch to get in touch with the people that are working an event or reach someone that is working on the street. An important strategy is to cut down on the miscommunications.

Bob LaBass came forward and stated that the school will work with maintenance to make sure they do not alter the striping. There will also be more communications with the Athletic Director of Tulsa Public Schools, the Athletic Director at Edison and the Principal of Edison.

Kevin Vanover came forward and stated the corrections to the parking lot plan will be included in the contract with the contractor that is doing the classroom addition. It is not something that maintenance will be allowed to do at a later date, and will not have to go out for bid causing a possible delay. It will be something added to the contract to get the work immediately done so it is not something that lingers.

Jon McGrath, 4139 South Florence Avenue, Tulsa, OK; stated the neighborhood is encouraged by the parking lot number increasing to 652, that has been a safety issue along Florence Avenue. Florence is the major ingress and egress for the neighborhood. State Statute requires Tulsa Public Schools to have ingress and egress on a major arterial. That is not what the neighborhood has today. The school has reconfigured it to have major ingress from Florence Avenue and it causes an issue. The neighborhood supports the maintenance and renovation of the school. The neighborhood wants to be good neighbors and they want the school to be good neighbors too.

Dorothy Ellen Burgess, 4247 South Columbia Place, Tulsa, OK; stated she has lived next to the school for 35 years and she is delighted to meet everyone today. She has enjoyed living next to the school and consider it an obligation as a good neighbor to observe and secure and report any problems she sees 24/7. Sometimes she sees problems that Tulsa Public Schools is not aware of. She appreciates the willingness of Mr. LaBass to get together all the people that are involved. She is sorry that this had to take place through the Board of Adjustment but it looks like everything is on the right track to getting things done. Since the last meeting she has seen a one-way sign installed on the access road. Ms. Burgess stated that there still needs to be sign on the road that says "Do Not Enter" on the south end, because a number of cars use it as an ingress and it is intended to be an egress. The problem the neighborhood has on Florence Avenue is that Florence is now the major ingress and that resulted when a road was built all the way across the back of the school. When she first moved into her house parking lots were accessed from the east side of the school or the west side and there was not adjoining road in the back. She assumes and hopes the contact number for Campus Security will be a 24/7 number because there have been many times at midnight or 1:00 A.M. there are things happening that should not be happening. Her neighborhood's concerns on their side of the school is the cars parking on the road, and use the road for something other than egress, it effects the enjoyment of their property to have strangers parked outside their back yards. The neighborhood, as Mr. LaBass knows, do not want lights there to make the area brighter. Will the new parking lot effect the safety of the buses who load and unload students along 41st Street in front of the school? In general she is supportive of what is going on.

Mr. Henke stated that if the request is approved per plan as submitted that requires the 652 striped parking spaces, and he cannot speak to the safety issue of the buses.

Mr. Vanover came forward and stated there will actually be a pedestrian walkway provided from the building past the new parking lot. It is still affording people to get from the building to the buses even with the parking lot in place. There will also be an area added on the west side to do the same thing. There will actually be more egress for the pedestrians to get to 41st Street where the buses are located.

Ms. Burgess asked about the status of the trees along 41st Street because she would not like to have them removed. Mr. Vanover stated that unfortunately it will involve removing the trees. Ms. Burgess stated that is a sad thing because a number of the trees were planted as a memorial to the space shuttle explosion. Mr. Vanover stated it is something that is trying to be avoided but in order to get the parking spaces count a few of the trees had to be sacrificed, which he thinks is about five trees. The saving of the trees was actively discussed but the project will destroy enough of the tree root structure that they will die. They are planting more trees as part of the project.

Mr. Vanover stated that one of the problems was the 25 spaces by the softball field were gated off. That gate will be moved to the south side of the softball field, and open those spaces up for the weekend use as well. That is shown in the revised project plan.

Mr. White asked about the site plan showing the 624 parking spaces and the plan showing the proposed 652 parking spaces, because the Board did not receive a copy of either plan. Ms. Vanover stated the plan was actually submitted today because they were not done in time to get them in the Board's agenda packet, and the TPS did not sign off on it until yesterday.

Ms. Burgess came forward and stated that Mr. Vanover said there are two gates now, now. Normally they lock both and she understands what they are talking about when they say they will leave the outer gates open so the parking spaces are accessible. Her neighbor says no one ever parks there because the lot is never used, but her concern is when the parking spaces were first installed they directly behind two houses that abut the lot. She would like to see screening provided for the parking spaces and the two houses, and there is no screening there currently. Mr. LaBass stated that there will be screening addressed and something will be installed.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Tidwell, White "aye"; no "nays"; no "abstentions"; Snyder, Van De Wiele absent) to **APPROVE** the request for a Variance to reduce the total number of required off-street parking spaces for a new classroom addition from 661 spaces to 652 spaces (Section 1201.D), subject to conceptual plan submitted today, November 12, 2014, showing the 652 striped parking

spaces with the location of the proposed classroom addition. The hardship is that there is not going to be any additional students involved so the student population will stay the same, this is merely a redistribution of that which is necessary to handle the students currently enrolled. 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:

NW NE SEC 29-19-13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

21796—Lashawna Donley-Smith

Action Requested:

Verification of the spacing requirement for a family day care home of 300 feet from another family day care home on the same street (Section 402.B.5.g). **LOCATION:** 2820 North Yorktown Place East (**CD 1**)

Presentation:

Lashawna Donley-Smith, 2820 North Yorktown Place, Tulsa, OK; no presentation was made but the applicant was present for any questions from the Board.

Mr. Henke stated the Board is in receipt of the applicants survey as shown on page 5.7 in the Board's agenda packet.

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, Tidwell, White "aye"; no "nays"; no "abstentions"; Snyder, Van De Wiele absent) for the Verification of the spacing requirement for a family day care home of 300 feet from another family day care home on the same street (Section 402.B.5.g) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing for a Family Day Care Home subject to the action of the Board being void should another Family

Day Car Home be established prior to this Family Day Care Home; for the following property:

LT 1 BLK 2, FRED THOMPSON 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 2:03 p.m.

Date approved: 11/25/14

Frank X. Ham, Jr.

Chair