

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1158
Tuesday, March 22, 2016, 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 Flanagan Van De Wiele White, Vice Chair	Snyder	Moye Sparger Wilkerson	Swiney, Legal Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, March 17, 2016, at 10:28 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. Moye read the rules and procedures for the Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the **Minutes** of the March 8, 2016 Board of Adjustment meeting (No. 1157).

UNFINISHED BUSINESS

None.

Mr. Henke explained to the applicants and interested parties that there were only four board members present at this meeting, and if an applicant or an interested party 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 and the interested parties if they understood and asked the applicants or interested parties what they would like to do. The audience nodded their understanding.

NEW APPLICATIONS

22042—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to permit a school use in the RM-2 District (Section 5.020-C).

LOCATION: 301 East Jasper Street North (CD 1)

Presentation:

Lou Reynolds, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated that he understands that Mr. Henke will be abstaining from this case and after speaking with his client, he would like to request a continuance to the meeting on April 12, 2016.

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, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **CONTINUE** the request for a Special Exception to permit a school use in the RM-2 District (Section 5.020-C) to the Board of Adjustment meeting on April 12, 2016; for the following property:

LTS 1 - 24 LESS BEG SWC LT 13 TH N18 SELY TO A PT ON SL LT 13 TH W12 POB & LESS BEG NWC LT 12 TH S77.07 TO PT ON NL W8.56 POB BLK 1 & E38 LT 4 & ALL LTS 5 THRU 9 & W5 LT 10 BLK 1 RAMONA ADDN & ALL VAC STREETS ADJ THERETO & LESS BEG 18 N SWC LT 13 TH, SUNSET HILL ADDN, RAMONA ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22043-Osage—Kim Earl

Action Requested:

Special Exception to permit a hair salon as a home occupation (Type 2) in the RS-3 District (Section 45.100). **LOCATION:** 602 North 28th Place West **(CD 1)**

Presentation:

Kimberly Earl, 602 North 28th West Place, Tulsa, OK; stated she would like to open a home hair salon.

Mr. Henke asked if she planned on any type of advertising. Ms. Earl stated that her business generated by “word of mouth”.

Mr. Henke asked Ms. Earl how many clients she would have at the salon at any one time. Ms. Earl stated that it would be just her operating in the salon so the maximum would be three patrons at a time.

Mr. Flanagan asked Ms. Earl if she had any plans for a neon sign. Mr. Earl stated that she did not because this is her home and she wants it to stay as a home.

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, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Special Exception to permit a hair salon as a home occupation (Type 2) in the RS-3 District (Section 45.100). Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

Lot Sixteen (16) Block Three (3), Skyline Ridge Fifth, CITY OF TULSA, OSAGE COUNTY, STATE OF OKLAHOMA

22044—Mike Marrara

Action Requested:

Special Exception to permit a duplex in the CH District (Section 15.020). **LOCATION:** 1508 South Cincinnati Avenue East **(CD 4)**

Presentation:

Mike Marrara, 8301 East 74th Place, Tulsa, OK; stated this is a four unit townhouse development. It was originally permitted and began construction in 2009. The current owner purchased the units from the bank and finished construction in 2011. Everything was permitted throughout the process but at the end the City did issue a final Certificate of Occupancy because it is two separate buildings, and the City categorizes the use as two individual duplexes. The development has been operating under a temporary Certificate of Occupancy. It is his understanding that with the advent of the new 2016 Zoning Code there is now a way to fix this problem through a Special Exception. There has been a lot split granted so each duplex is on its own property.

Mr. Van De Wiele asked staff if there had been a Variance or Special Exception approved in the past on this property. Ms. Moyer stated that in the case history research she did not find any approval for the duplex use.

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, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Special Exception to permit a duplex in the CH District (Section 15.020), subject to per plan 4.9 “As Built”. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

Lot 1-2 & the North 1 foot of Lot 3, Block 15 Maple Park Addition, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22045—Charles and Jane Green

Action Requested:

Special Exception to permit a carport in the street yard of abutting South Peoria Avenue (Section 90.090-C1); Variance to increase the permitted size of a carport from 400 square feet to 468 square feet (Section 90.090-C1.b). **LOCATION:** 1257 East 29th Street South **(CD 4)**

Presentation:

Charles Green, 1257 East 29th Street, Tulsa, OK; no presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Mr. Green if he was replacing the garage or if he was just adding on to the front of the garage. Mr. Green stated that he is adding on to the existing garage.

Mr. Green stated that from the roof line to end of the new carport it is 24 feet instead of 26 feet but it is 26 feet from the wall line of the existing garage. The roof line will be the same and will match up with the existing roof line.

Ms. Miller stated that for clarification there are two requests on the agenda; one for a Special Exception to permit a carport and the second is a Variance to increase the permitted size. The new Zoning Code allows for the size to be altered through the Special Exception process rather than needing a Variance. To have a clean ending to the case the Board can deny the Variance or the applicant can withdraw the Variance.

Mr. Henke asked Mr. Green if he was willing to withdraw the Variance request. Mr. Green stated that he will withdraw the request for a Variance.

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, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Special Exception to permit a carport in the street yard of abutting South Peoria Avenue (Section 90.090-C1), per conceptual plan 5.17 and 5.18. The Board’s approval of the Special Exception will also allow for the increase of the size of the carport from 400 square feet to 468 square feet in accordance with the conceptual site plans cited and it is pursuant to Section 90.090-C, Note 1. The applicant has withdrawn his application for a Variance. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 30 BLK 20, SUNSET TERRACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22046—Robert Parker

Action Requested:

Variance of the required lot width in the RS-2 District from 75 feet to 66.39 feet (Section 5.030). **LOCATION:** 5011 East 33rd Street South **(CD 5)**

Presentation:

Robert Parker, 8522 East 61st Street, Tulsa, OK; stated he filed the application on behalf of the petitioner in this matter.

Mr. Van De Wiele asked Mr. Parker if only the small rectangular piece on the east lot is being moved over to the west lot. Mr. Parker answered affirmatively and stated that it is to have two rectangular pieces of property.

Mr. Van De Wiele asked Mr. Parker if the street frontage was changing on either piece of property. Mr. Parker stated that that the street frontage is not being changed.

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, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Variance of the required lot width in the RS-2 District from 75 feet to 66.39 feet (Section 5.030), subject to per plan 6.12 and 6.13. The Board has found that the application is not changing the frontage on East 33rd Street but is merely moving a portion of the rear yard from one lot to the other and ultimately forming two rectangular lots. The Board has found that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision’s intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

**PRT LT 2 BEG SECR W/2 E/2 LT 2 TH W66.39 N98.53 W17.74 N81.57 E85.26 S180
POB BLK 2, YORKSHIRE ESTATES, CITY OF TULSA, TULSA COUNTY, STATE OF
OKLAHOMA**

22050-Osage—Bobby Sanders

Action Requested:

Variance of the required lot width in the AG District from 200 feet to 149.85 feet to permit construction of a single-family home (Section 25.020). **LOCATION:** 1533 North 70th Place West **(CD 1)**

Presentation:

Kathy Anderson, 4944 Highbank Drive, Arlington, TX; stated that Mr. Bobby Sanders was unable to attend today's meeting. She purchased the land, had a lot split approved and in the meantime there were new regulations adopted regarding the average width of a piece of property and the property no longer meets the requirements thus the request for a Variance. If the Variance is approved she plans on building a family home on the property.

Mr. White asked Mr. Swiney if this property could be "grandfathered in" under the new Zoning Code since the property met the requirements under the old conditions. Mr. Swinney stated that the Zoning Clearance Plan on page 7.6 in the Board's agenda packet and that was issued February 24, 2016 and that is after the effective date of the new Zoning Code. Therefore, he does not see any grandfathering available in this matter.

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, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the request for a Variance of the required lot width in the AG District from 200 feet to 149.85 feet to permit construction of a single-family home (Section 25.020-C). The Board has found that the hardship is the fact that the lot has an unusual narrowing configuration and the average lot width requirement itself is what dictates the necessity for the Variance. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;

- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 20 NORTH, RANGE 12 EAST OF THE INDIAN BASE AND MERIDIAN, OSAGE COUNTY, OKLAHOMA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER. THENCE N 00°18'29" W ALONG THE EAST LINE OF THE SOUTHWEST QUARTER A DISTANCE OF 1391.32 FEET. THENCE S 89°28'08" W A DISTANCE OF 756.33 FEET TO THE POINT OF BEGINNING. THENCE S 00°18'29" E A DISTANCE OF 70.00 FEET. THENCE S 89°28'08" W A DISTANCE OF 363.00 FEET. THENCE N 83°47'14" W A DISTANCE OF 505.43 FEET. THENCE N 31°56'47" E A DISTANCE OF 130.40 FEET. THENCE N 18°24'47" E A DISTANCE OF 99.30 FEET. THENCE S 67°52'18" E A DISTANCE OF 501.67 FEET. THENCE N 89°28'08" E A DISTANCE OF 300.00 FEET TO THE POINT OF BEGINNING. CONTAINING 2.25 ACRES, MORE OR LESS AND SUBJECT TO ANY EASEMENTS OF RECORD, CITY OF TULSA, OSAGE COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 1:26 p.m.

Date approved: 4/12/16

Frank X. Hill, IV
Chair