

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1166
Tuesday, July 26, 2016, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Van De Wiele, Chair White, Vice Chair Flanagan, Secretary Snyder	Bond	Miller Moye Sparger Sawyer	Swiney, Legal Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on Thursday, July 21, 2016, at 10:21 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Van De Wiele called the meeting to order at 1:00 p.m.

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

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present at this meeting. 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. Van De Wiele 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 and no one requested a continuance.

MINUTES

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the July 12, 2016 Board of Adjustment meeting (No. 1165).

UNFINISHED BUSINESS

22094—Eric Grimshaw

Action Requested:

Variance to allow a nonconforming structure to extend further into the front setback (Section 80.030-D). **LOCATION:** 2639 East 33rd Place South **(CD 9)**

Presentation:

Mark Nelson, Architect, 1603 South College Avenue, Tulsa, OK; stated he would like to add a small covered porch to the front of the subject house. The house was built to a 25 foot building line as well as the other houses on the street. Because the Zoning Code requires a 35 foot building line so 10 feet of the house is non-conforming as would be the porch addition.

Ms. Snyder asked Mr. Nelson how many feet would the porch be adding to the existing house. Mr. Nelson stated that it is approximately four feet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 4-0-0 (Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to allow a nonconforming structure to extend further into the front setback (Section 80.030-D), subject to the conceptual plan 2.12. The Board has found that the house has a pre-existing setback of 25 feet and this will be approximately four feet more into the new setback requirement of 35 feet. 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:

LT-7-BLK-1, TIMBERLAND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22099—Josh Lamb

Action Requested:

Special Exception to allow a religious assembly use in the RS-3 District to permit a parking area for an existing church (Section 55.080). **LOCATION:** 3718 & 3726 East 36th Place South **(CD 9)**

Presentation:

This application has been withdrawn by the applicant.

Interested Parties:

There were interested parties present but they did not speak.

Comments and Questions:

None.

Board Action:

No Board action required; on the following property:

E90 S140 N165 W180 E485 BLK 10; W 90 OF S 140 OF N 165 OF W 180 OF E 485BLK 10,36TH STREET SUBURB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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NEW APPLICATIONS

22106—Gable Gotwals – Stephen Schuller

Action Requested:

Verification of the 300 foot spacing requirement for a liquor store from plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 40.300). **LOCATION:** 2432 East 51st Street South **(CD 9)**

Mr. White recused at 1:11 P.M.

Presentation:

Stephen Schuller, Gable Gotwals, 1100 OneOk Plaza, 100 West 5th Street, Tulsa, OK; stated the subject property was the former headquarters for the Girl Scouts which is east of where the current Park Hill Liquor Store is located. Park Hill has purchased the subject property from the Girl Scouts and will relocate the existing liquor store to the subject property. The old building is going to be razed and there will be a new building erected for Park Hill. Because the new building has not been built yet there is no way to certify that from external building wall to external building wall that the prerequisite distance has been met. What has been done with the 300 foot radius, White Survey Company measured from the external property boundary and there are no other liquor stores within the 300 foot radius of the subject property. Park Hill will close the existing liquor store before relocating and opening in the new facility.

Interested Parties:

Patrick J. Noonan, 5146 South Atlanta Avenue, Tulsa, OK; stated that from the publication he could not tell what the request was, but after hearing the presentation today he has no objections to the request.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 3-0-1 (Flanagan, Snyder, Van De Wiele “aye”; no “nays”; White “abstaining”; Bond absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing for the proposed liquor store subject to the condition that the existing liquor store, labeled as Park Hills Liquors and Wine on the attached exhibit be closed; and subject to the action of the Board being void should another liquor store or other conflicting use be established prior to the establishment of this liquor; for the following property:

N/2 W/2 E/2 NW NW SEC 32 19 13, City of Tulsa, Tulsa County, State of Oklahoma

Mr. White re-entered the meeting at 1:15 P.M.

22107—Jose Ibarra

Action Requested:

Variance to reduce the street yard setback (Section 5.030-A). **LOCATION:** 1443 North Evanston Avenue East **(CD 3)**

Presentation:

Jose Ibarra, 1443 North Evanston Avenue, Tulsa, OK; stated the house has very steep steps and he would like to rebuild the porch. Mr. Ibarra stated that he would also like to have a carport in the future.

Interested Parties:

Susan Day, 1458 North Evanston Avenue, Tulsa, OK; stated she is protesting this request because it is too close to the street and the property is already an eyesore. She does not have a problem with an addition on the rear of the house but she is against the front addition.

Mr. Van De Wiele stated that there are additions in the neighborhood, whether they are carports or patios. Ms. Day agreed and stated that the house across the street hangs blue tarps on the porch in the winter so they can use it all winter long and she thinks that should not be allowed. Mr. Van De Wiele agreed with Ms. Day in regards to the blue tarps.

Mr. Van De Wiele asked Ms. Day what her complaint about the applicant's request is based on. Ms. Day stated that her complaint is based on what she sees looking out her kitchen window and she presented pictures of her view to be placed on the overhead projector which showed multiple vehicles parked on the grass. Mr. Van De Wiele stated that she can call Code Enforcement about the parking on the grass because that is a violation. Ms. Day stated that she is the person who called Code Enforcement when the owner started building the porch and she is against them building it.

Rebuttal:

Mr. Ibarra stated that the reason he parks on the grass and off the street is because someone has hit his vehicles and it has happened on three different occasions. So for safety reasons he parks his cars in his yard, but he would like to widen his driveway in the future. Mr. Van De Wiele stated that Mr. Ibarra can certainly look into widening his driveway but parking on the grass is not allowed.

Comments and Questions:

Mr. Van De Wiele stated that he thinks this is not any different than other properties in the neighborhood that have similar covered porches and carports that extend from the front building line. Provided the addition is done in compliance and in accordance with the building code he would not have a problem with this request. Mr. Van De Wiele does agree with Ms. Day about parking on the grass.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Bond absent) to **APPROVE** the request for a **Variance** to reduce the street yard setback (Section 5.030-A), subject to conceptual plan 5.8. The roofing material is to match the style and the color of the existing roofing. The front and the sides of the porch are to remain open at all time. 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:

LT 16 BLK 3, MARYLAND HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22108—Jesse Gober

Action Requested:

Special Exception of the wall and/or fence height from 4 feet to 8 feet in the required front yard in the R District (Section 45.080). **LOCATION:** 1905 East 41st Street South **(CD 9)**

Presentation:

Jesse Gober, 251 East South Lake Boulevard, South Lake, Texas; stated his client would like to install an eight foot fence, which will consist of a 2’-0” stone wall footing that will match the house with 6’-0” of wrought iron fencing on top of the wall.

Mr. Van De Wiele asked Mr. Gober if the gate was going to be wrought iron. Mr. Gober answered affirmatively. Mr. Van De Wiele stated that the renderings he saw of the fence looked like cedar. Mr. Gober stated the fence will actually be ¾” x ¾” pickets and

not cedar. Mr. Gober stated that the gates will be wrought iron and the bottom portion will be solid.

Mr. Gober stated the fence is for security. The home owner's house was broken into and robbed at gunpoint. They also have a continual problem of people pulling into their driveway from 41st Street.

Mr. Van De Wiele asked how far off the property line or 41st Street would this fence be placed. Mr. Gober stated that currently there is a decorative four foot fence on the property and the new fence would be in that location. The gate for the driveway would set back farther to allow proper stacking.

Mr. White asked Mr. Gober what the spacing between the pickets would be. Mr. Gober stated that he has not detailed that out but it will probably be four to six inches. Mr. White asked Mr. Gober if the pickets were going to be $\frac{3}{4}$ " wide pickets. Mr. Gober nodded in agreement. Mr. White asked if that would mean that every 4-3/4" there will be a four inch gap. Mr. Gober stated that is not final so he is not sure. Mr. Gober stated that he has not detailed out the panels yet. Mr. White stated that he was thinking about the site and air flow pattern. Mr. Gober stated that the purpose is so that people can see because if someone were to get over the eight foot structure the home owner's would want to have someone to be able to see what is happening.

Interested Parties:

Lawrence Halka, 4101 South Victor Court, Tulsa, OK; stated he lives directly across 41st Street from the subject property. He was confused as to whether this was going to be a solid or open fence and he is relieved that the top portion will not be a solid fence. Mr. Halka stated that the only fences that exist along 41st Street in the entire neighborhood are those that have been approved as part of planned developments which are directly to the east of the subject property. There are no other walls or tall fences in the area; certainly along Victor Court or along 41st Street from Utica to Lewis except for the planned developments. Mr. Halka understands the appreciation for additional security and has no objection to that but he does not believe an eight foot fence is attractive or necessary. He does not believe the last two feet add 33% more security. Mr. Halka stated that the adjoining fence is almost seven feet except for the columns which may reach close to eight feet. He does not see any reason to have a taller fence than the adjoining fence. Mr. Halka stated that according to the specifications provided the columns in the subject fence exceed the proposed eight foot height. Mr. Halka stated that he would be amenable to a six foot total height fence as long as it meets the open spacing as proposed by the applicant.

Mahala Mattal, 1905 East 41st Street, Tulsa, OK; stated that she is the homeowner. The fence is for safety and two feet in fence height does make a difference as far as people being able to scale a fence. She has a sidewalk that she had installed in front of her house and that allows people to sit in front of her house on a constant regular basis. These people malingering and throw trash into the yard. People drive down in the middle of the night. She has two small children and this is very personal for her and that is the

reason for the fence. She is trying to stay very aesthetic and does not want the fence to be an eyesore by any means whatsoever. The fence will absolutely not be a sound barrier or an eyesore because she is being very cautious about that. She has had security people come in from New York City and give her recommendations for their security.

Comments and Questions:

Mr. White stated that the fact the bottom two foot portion is solid yet the top six feet is not solid he does not have any problem with the request, because security is becoming more and more paramount.

Mr. Van De Wiele agreed. As to whether a six foot or eight foot fence is easier to scale he is not too sure about. A two foot wall with a four foot fence on top of it would be something that could be climbed over fairly simply. He does think the architecture of what has been drawn up, to the extent that the fence is wrought iron not just a cedar plank fence on top, is attractive. Mr. Van De Wiele stated that he appreciates the neighbors concerns as well, but he thinks it sits far enough off 41st that it tends to mitigate that concern. He can support the application.

Ms. Snyder stated that she does not have a problem with the request.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Bond absent) to **APPROVE** the request for a Special Exception of the wall and/or fence height from 4 feet to 8 feet in the required street setback in the R District (Section 45.080), subject to conceptual plans 6.10, 6.11, 6.12 and 6.13. The construction of the fence is shown on conceptual plan 6.13. The fence is to have a 2'-0" stone base with steel/wrought iron pickets on the top of the base. The pickets are to be ½" x ½" with an approximate 4" spacing between the pickets for sight and air flow. 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:

S 400' W 30' LT 9 & S 400' LT 10 & S 296.9' W 1/2 VAC ST ON WEST, ESSEX RSB PT L8&9 ROYAL OAK HTS & PT L1-3 YORKTOWN EST, ROYAL OAK HGTS, HIGHLAND PARK EST, City of Tulsa, Tulsa County, State of Oklahoma

22109—Tanner Consulting, LLC

Action Requested:

Variance from the street yard landscaping requirements (Section 65.030); Variance from the landscaping installation, irrigation and maintenance requirements (Section 65.070); Variance to reduce the required parking to 0 spaces (Section 55.080-C) to permit construction of a replacement storage building. **LOCATION:** 1114 East 1st Street South **(CD 4)**

Presentation:

Erik Enyart, 5323 South Lewis Avenue, Tulsa, OK; stated he is before the Board representing The Mike Alexander Company. The subject property is small and has approximately 62 feet of frontage on 1st Street and is 100 feet deep. The subject property is surrounded on three sides by buildings and block walls. This application is for a storage building and it will be approximately 40'-0" x 75'-0" due to sewer requirements and the building has now been advanced up to the ten foot setback on 1st Street. Pertaining to the parking Variance, ten feet does not allow for an ADA compliant parking space because there is not enough room. His client does not need the one parking space required by the Tulsa Zoning Code. This property is located just outside the downtown corridor where parking is ideally on the street. Mr. Enyart stated that the hardship in this case is that the one parking space would further reduce the size of the building which would present a substantial and unnecessary hardship to the owner. Provided the parking space Variance is approved the landscaping tied to the parking becomes unnecessary, however, there would remain the street yard induced landscaping standards. The required street yard is the ten foot setback per the Zoning Code and there needs to be 12.4 of width in order to meet the 124 square feet of required landscape area. There are obstacles on both the east and west sides of the proposed building, i.e., a gutter, overhead utility lines, existing driveways, etc. There is a gas meter and guard rail on the west side of the building and there is a building built up to the westerly property line. The subject property is in the middle of an older large industrial area in Tulsa. The hardship is that it would be a substantial and unnecessary hardship to tear out a section of paving to install a patch of grass with an underground irrigation system which would compromise the building's purpose to efficiently receive loading vehicles serving the businesses storage building.

Mr. Van De Wiele asked Mr. Enyart if the subject property was used in connection with one of the adjoining properties. Mr. Enyart answered affirmatively and stated that The Mike Alexander Company's headquarters is on the parcel to the east.

Mr. Van De Wiele asked Mr. Enyart if the company had parking on headquarters property for the employees and visitors. Mr. Enyart answered affirmatively.

Mr. Swiney asked Mr. Enyart if his client owned the building located to west of the subject property or the building to the southwest. Mr. Enyart stated that they did not. Mr. Swiney asked Mr. Enyart if there was access between the headquarters and the proposed building. Mr. Enyart stated that the proposed building will simply be a storage building with an overhead door and a pedestrian door on the front, and there is no connection designed between the two buildings at this time. Mr. Swiney asked Mr. Enyart if the loading and unloading would be done from the street frontage. Mr. Enyart answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 4-0-0 (Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Bond absent) to **APPROVE** the request for a Variance from the street yard landscaping requirements (Section 65.030); Variance from the landscaping installation, irrigation and maintenance requirements (Section 65.070); Variance to reduce the required parking to 0 spaces (Section 55.080-C) to permit construction of a replacement storage building. The Board has found that this is a very small lot and the owner owns the lot directly to the east where there is parking. This request only requires half of a parking space and due to the sewer requirements the owner had to make adjustments to the plans. There is not significant room to meet the parking requirements. 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:

E20 LT 1 & E20 LT 2 & A TR 42X100 ADJ IMMEDIATELY ON EAST BLK 1,LONSDALE ADDN, BERRY ADDN, HODGE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

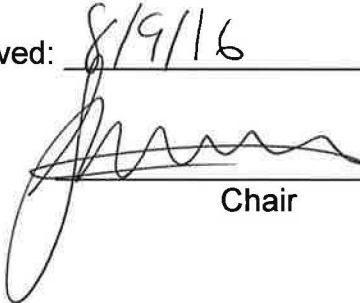
NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Mr. Van De Wiele announced that today is Ms. Tori Snyder's last meeting as she is retiring her position on the Board. Mr. Van De Wiele presented Ms. Snyder with a Certification of Appreciation for her time served on the Board of Adjustment. Ms. Snyder stated that she has enjoyed her time on the Board, she has learned a lot while serving on the Board, and she will miss everyone. The Board members all stated that they will miss Tori and have enjoyed working with her.

There being no further business, the meeting adjourned at 1:50 p.m.

Date approved: 8/9/16


Chair