

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 907
Tuesday, March 22, 2005, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Chair
Henke
Paddock
Stead

**MEMBERS
ABSENT**

Stephens

**STAFF
PRESENT**

Butler
Cuthbertson
Alberty

**OTHERS
PRESENT**

Ackermann, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Thursday, March 17, 2005, at 4:52 p.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

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

Mr. Cuthbertson read the rules and procedures for the Board of Adjustment Public Hearing.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 19983

Action Requested:

Variance of required parking spaces from 87 to 79 spaces; a Special Exception to allow required parking on a lot other than the one containing the principal use; and a Variance of the off-street parking setback from the centerline of an abutting street from 50' to 30' to permit retail/office used and associated parking, located:1325 East 15th Street South.

Request to Continue.

Presentation:

Mr. Cuthbertson informed the Board that the applicant requested a continuance to the next scheduled meeting. The applicant revised the site plan and had changes to the parking numbers.

Board Action:

On **Motion of Henke**, the Board voted 4-0-0 (Dunham, Paddock, Stead, Henke "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** Case No. 19983 to the meeting on April 12, 2005, regarding the following described property:

LTS 13-15 & PRT VAC ALLEY ADJ ON E BEG SECR LT 13TH N107.49 E1.86 S107.49 W1.26 POB BLK 7, LT 16 BLK 7, LTS 17 18 BLK 7, BELLVIEW ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20011

Action Requested:

Special exception to allow a tire recapping (U.U. 26) in an IL zoned district (Section 901), located: 98 North 129th Avenue East.

Presentation:

Mr. Cuthbertson informed the Board the application was submitted to the Board pending a zoning application. The planning commission denied the request for re-zoning. If he appeals the zoning case he wants this case continued.

Board Action:

On **Motion of Paddock**, the Board voted 4-0-0 (Dunham, , Paddock, Stead, Henke "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** Case No. 20011, regarding the following described property:

BEG SECR GOV LT 1 TH W362 N362 E362 S362 POB LESSBEG SECR LT 1 TH W362 N50 E276 NE36.88 TO PT 58W & 74N SECR L1 TH N288 E58 S362 POB FOR ST SEC 5 1914 2.169ACS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20009

Action Requested:

A Special Exception to allow required parking on a lot other than the lot containing the principal use (Section 1301.D) to permit an office/manufacturing operation, located: 619 East 4th Street South.

Presentation:

Mr. Cuthbertson informed the Board that the applicant withdrew the application and plans to obtain re-zoning to CBD.

Board Action:

There was no action required.

UNFINISHED BUSINESS

Case No. 20000

Action Requested:

Special Exception for Use Unit 2 use (convict pre-release center). SECTION 701. Principal Uses Permitted in Commercial Districts -- Use Unit 2; Special Exception for spacing from other similar uses, SECTION 1202.C.7.-- Use Unit 2 Area-wide Special Exception Uses, Use Conditions, located: 1214 South Baltimore.

Presentation:

Kevin Coutant, 320 South Boston, Suite 500, represented 12 X 12, Inc. He submitted a packet of exhibits (Exhibit A-1). He pointed out the location and the described the building as a red brick apartment style building. They have received approval previously with limits of duration. They need to obtain renewed approval of the special exception. The residents are held to the rules in order to stay. They have high security and no history of police calls for problems. He read a letter (Exhibit A-2) from the Department of Corrections in support of the application. He provided a map (Exhibit A-3) and mentioned the ½ mile distance limitation in the zoning code.

Comments and Questions:

Ms. Stead noted there was a complaint of unsightly trash containers in the public street and the designated smoking areas were along the public sidewalk. Ms. Stead added that she drove by the property and did not see those things. She suggested daily trash pickup on the grounds.

Interested Parties:

Jim Norton, 321 South Boston, Suite 101, President of Downtown Tulsa Unlimited, stated this is one of the best managed facilities in the city. They agree with the conditions to which the staff and the applicant have agreed. He mentioned the Centennial Walk that is heavily landscaped, pedestrian walk through downtown Tulsa. The portion of this walk closest to the subject property has not been constructed yet. They asked that a time limitation of three years be placed, should the Board approve the application. This would give opportunity to review changes and Vision 2025 development plans for the future of the downtown area.

Comments and Questions:

Ms. Stead asked Mr. Norton if he knew of any other Vision 2025 plans near this facility. Mr. Norton was not aware of any other Vision 2025 projects. Mr. Paddock inquired about specifics as to why they had concern about this. Mr. Norton replied they appreciate the good management by 12 X 12 and want to be sure that sort of operator is still operating the facility.

Applicant's Rebuttal:

Mr. Coutant responded that this facility is not on the proposed, unfunded Centennial Walk in the Vision 2025 Plans. He stated it is not inconsistent with downtown redevelopment.

Board Action:

On **Motion of Paddock**, the Board voted 3-1-0 (Dunham, Paddock, Stead, "aye"; Henke "nay"; no "abstentions"; Stephens "absent") to **APPROVE** a **Special Exception** for Use Unit 2 use (convict pre-release center). SECTION 701. Principal Uses Permitted in Commercial Districts -- Use Unit 2, with conditions: a limit of 35 non-violent, non-sexual offenders for drug and alcohol treatment only; have a contract with the Dept. of Corrections allowing 12 X 12 to refuse admission to any individual being convicted of sex crimes, assault and battery or any violent criminal activities; with continual lighting during the nighttime hours; approval for five years; and daily trash pickup of the grounds; finding it 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.

On **Amended Motion of Paddock**, the Board voted 3-1-0 (Dunham, Paddock, Stead, "aye"; Henke "nay"; no "abstentions"; Stephens "absent") to include **APPROVAL** of the second **Special Exception** for spacing from other similar uses, SECTION 1202.C.7.-- Use Unit 2 Area-wide Special Exception Uses, Use Conditions, on the following described property:

S35 LT 1 & ALL LT 2 & 8 VAC ALLEY ADJ ON W BLK 3, HORNER ADDN AMD, OAK GROVE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 20006

Action Requested:

Variance of required structure height from 35 ft to 43 ft to allow the construction of a residential dwelling on the subject lot, located: 4354 South Victor Avenue East.

Presentation:

Roger Coffey, with Olsen-Coffey Architects, requested a height variance to the proposed residence. The site plan was provided (Exhibit B-1). The houses face more toward Victor Avenue. The finished floor of the house would be about ten feet below the level of the street. The plans are for a two-story house with about 7,000 sq. ft., and the ground floor would have ten foot ceilings. Neighboring houses appear to be above the required 35' height, some of which are three-story structures.

Comments and Questions:

Ms. Stead asked for the hardship. Mr. Coffey replied that it was not possible to build a 7,000 sq. ft. house in this style with the pitched roof at 35 ft. Mr. Ackermann commented that the hardship will need to be tied to the condition or circumstance peculiar to the land, structure of the building involved or show that the literal enforcement of the code would be a hardship. He remembered that Mr. Coffey mentioned the steep change in topography of the property.

Interested Parties:

Herb Beattie, 3474 South Zunis Avenue, represented the Brookside Neighborhood Association. They had no objection to the application and he noted the substantial drop in elevation of the property from the street.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (Dunham, Paddock, Stead, Henke "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Variance** of required structure height from 35 ft to 43 ft to allow the construction of a residential dwelling on the subject lot, finding the hardship is the topography of the lot is lower than the adjoining street, per plan, and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

LT 4 BLK 8, BOLEWOOD ACRES, BOLEWOOD CIRCLE RESUB L5 B8
BOLEWOOD ACRES, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20008

Action Requested:

Special Exception to allow used automobile sales in a CS zoned district (Section 701), located: 5809 South Peoria Avenue East.

Presentation:

Ophi Seimore, 2651 East 21st Street, stated she is the realtor for the applicant and his interpreter. He had a contract pending to purchase the property. He owns two other clean and successful car lots. She provided photographs (Exhibit C-1). When they discussed the application with the neighborhood they received their support (Exhibit C-2). She stated it would be an improvement to the property.

Comments and Questions:

Ms. Stead noted a commercial semi-truck trailer was on the property and she asked if that business has moved out. Ms. Seimore replied the home improvement company was the current owner and they planned to be out by the closing date, March 31, 2005.

Eric Seimore, 8206 South 43rd West, stated he is one of the team of realtors. He indicated it would be a clean lot for car sales.

Interested Parties:

There were no interested parties present who wished to speak. One letter of opposition from **Charles Gilmore**, owner of the Keyport Self-Storage at 5745 South Peoria (Exhibit C-3) was sent to the Board.

Comments and Questions:

The Board discussed the conditions listed in the staff comments. Mr. Dunham stated he had no problem with approving with those conditions. Ms. Stead commented she had confidence the applicant would have as good of a car lot as he has on 11th Street. She added that the 11th Street lot is always clean and she expected he would do something to make the proposed lot look better. She and Mr. Dunham both commented that economics would cause it to grow. Mr. Dunham stated the three-foot pipe fence is a good condition for this case.

Board Action:

On **Motion** of **Stead**, the Board voted 3-1-0 (Dunham, Stead, Henke "aye"; Paddock "nay"; no "abstentions"; Stephens "absent") to **APPROVE** a **Special Exception** to allow used automobile sales in a CS zoned district (Section 701), with conditions: no inoperable vehicles stored on site; no outside storage of parts or materials; only light maintenance or repairs inside the building; no access from adjacent car lots; no fence to exceed 3' in height along the arterial street; sale and display of cars limited to an area between existing structure and adjacent arterial street, finding it 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, on the following described property:

W130 W170 LESS W15 THEREOF LT 7, SOUTHLAWN ADDN, City of Tulsa,
Tulsa County, State of Oklahoma

Case No. 20010

Action Requested:

Variance from the required number of parking spaces from 9 to 8 to permit office use (Section 1211.D), 1634 South Boston Avenue East.

Presentation:

Steve Schuller, 100 West 5th Street, Suite 500, represented his client, Brian Freese. Mr. Freese proposed to open an office for his architectural firm for four employees. The building has 2,690 sq. ft. of floor area, which would require 8.966 parking spaces. There is no space for more parking due to the location of the building on the property and the configuration of the development of the adjoining properties. He added that it is an unusually small lot for a property in a CH district.

The buildings on the adjoining properties abut the building on this property. In the front of the building there is a wide sidewalk. Parking in the front would disrupt the unique pedestrian feel of the neighborhood and require removing the sidewalk. The space at the rear is the only realistically available area for parking. Most of the neighboring properties have more parking spaces available at the rear or on adjacent parking lots. The changes in the zoning code since this structure was built would cause an unnecessary hardship from the literal enforcement of the code. There is no adverse affect on the neighborhood by decreasing one parking space, since there is ample street parking along Boston Avenue. Mr. Schuller referred the Board to the letter of support from Mr. Joe Westervelt, a neighboring property owner (Exhibit D-1).

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Paddock**, the Board voted 4-0-0 (Dunham, Paddock, Stead, Henke "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Variance** from the required number of parking spaces from 9 to 8 to permit office use (Section 1211.D), finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; and finding the building was constructed before zoning code requirements for off-street parking; the lots were smaller and did not take parking into consideration; this is a high-intensity, urban area; and the buildings in the surrounding area have similar issues for parking and this would not be detrimental to the neighborhood; and there is ample parking on the street, on the following described property:

LT 10 BLK 2, CODY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20013

Action Requested:

Variance of the required 70 ft setback from the centerline of S. Peoria Avenue to 40 ft. (Section 403); and a Variance of the allowable height for a fence in the required front yard from 4 ft to 8 ft for a stucco screening wall (Section 210.B.3)

Presentation:

Richard Winn, 1530 South Harvard, is the architect and represented the property owner. He stated the hardship is that the 70 ft. setback would limit them to a 55 ft. frontage. He added that would make it difficult to build an estate type home with that little frontage. The required 35 ft. right-of-way imposed on this property reduces the lot area, as well as the frontage, and essentially creates a non-conforming lot.

Comments and Questions:

Mr. Dunham questioned if the existing house encroaches on the setback requirement. Mr. Winn replied there are 53 ft. from the centerline of Peoria, about 13 ft. more than they proposed. Mr. Dunham noted the variance for the fence height also. Mr. Winn replied that the fence height would provide more security and sound barrier from the heavy vehicular and pedestrian traffic. He also referred to five such variances granted in this neighborhood, three of them on this street. Mr. Dunham suggested they need to provide a sight triangle for traffic safety. Mr. Winn stated that the improvement exceeds the existing encroachment in the sight triangle. Ms. Stead asked if the new fence would be to the east of the trees along Peoria. Mr. Winn thought the trees were slated for removal. Mr. Winn agreed to a condition that the fence would not encroach into the sight triangle.

Staff advised the Board that the request to vary the fence height is actually allowed by a special exception. It is listed as a variance but the Board should take action on the fence height variation as a special exception.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (Dunham, Paddock, Stead, Henke "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Variance** of the required 70 ft setback from the centerline of S. Peoria Avenue to 40 ft. (Section 403), finding this to be a non-conforming lot by the narrowness of the RE-zoned lot; and that the literal enforcement of the code would work a hardship on this lot; and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan.

On **Motion** of **Paddock**, the Board voted 3-1-0 (Dunham, Paddock, Henke "aye"; Stead "nay"; no "abstentions"; Stephens "absent") to **APPROVE** and a **Special Exception** of the allowable height for a fence in the required front yard from 4 ft to 8 ft for a stucco screening wall (Section 210.B.3), with condition: that the fence not encroach into the sight triangle, finding it 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; and it will not encroach into the sight triangle, on the following described property:

BEG AT A PT 1771N & 18.5E OF SWC OF SEC 18 TH N194 E121.5 S194
W121.5 POB SEC 18 19 13, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20015

Action Requested:

A minor Special Exception to permit a 5' reduction in the required front yard setback from 30' to 25' (Section 403), located: 3132 South Victor Avenue East.

Presentation:

Donna Gainey, 3132 South Victor Avenue, stated the subject property is slightly irregular. She referred to the conceptual plan drawn by the architect.

Comments and Questions:

Ms. Stead noted sketch on page 9.5 in the agenda packet should not have been included.

Interested Parties:

Herb Beattie, 3474 South Zunis Avenue, represented the Brookside Neighborhood Association. He stated the support the application.

Comments and Questions:

Mr. Paddock stated that in the past the Board has declined applications special exceptions for front yard setbacks. Ms. Stead noted the street is on a curve and inordinately wide.

Board Action:

On **Motion of Henke**, the Board voted 4-0-0 (Dunham, Paddock, Stead, Henke "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Special Exception** to permit a 5' reduction in the required front yard setback from 30' to 25' (Section 403), finding it 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, on the following described property:

E46.7 LT 2 & ALL LT 22 LESS BEG NWC LT 22 TH SE24.11 SW46.59 N60.54
POB BLK 7, BREN-ROSE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting was adjourned at 2:44 p.m.

Date approved: 4/26/2005



Chair