

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1211
 Tuesday, August 14, 2018, 1:00 p.m.
 Tulsa City Council Chambers
 One Technology Center
 175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Back, Vice Chair Ross, Secretary Bond Radney	Van De Wiele, Chair	Miller Ulmer Sparger R. Jones	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on August 9, 2018, at 9:05 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Back, Bond, Radney, Ross "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the **Minutes** of the July 10, 2018 Board of Adjustment meeting (No. 1209).

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Back, Bond, Radney, Ross "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the **Minutes** of the July 24, 2018 Board of Adjustment meeting (No. 1210).

Ms. Back explained to the applicants and interested parties that there were only four board members present today. Any motion will require an affirmative vote of three of the remaining four members. When there is less than a full Board the Board will entertain a request to continue agenda items to a later meeting date, at which all five

members of the Board may be present. 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. The audience nodded their understanding and no one came forward to request a continuance.

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UNFINISHED BUSINESS

None.

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NEW APPLICATIONS

22484—Deborah Richards

Action Requested:

Variance to permit a structure to be located within City of Tulsa planned street right-of-way (Section 90.090-A); Special Exception to allow signs in the planned street right-of-way/right-of-way (Section 60.020-E). **LOCATION:** 1007 South Peoria Avenue East (CD 4)

Presentation:

Deborah Richards, Architect, 718 West Sheridan Avenue, Oklahoma City, OK; stated this is a proposal for a new building which will be a doctor's office or a health center. The property is zoned CH which has zero setbacks requirement. CH is a district that encourages commercial activities in downtown areas. When the project was started she surveyed other buildings along the street, and there are several older commercial buildings on the street that are located close to the street. In keeping with the character of the older buildings she placed the proposed building close to the street to reinforce the urban environment and the character of the neighborhood. As a health center this facility has a lot of very specific requirements for room sizes, and the plan is designed very tight to the Code requirements. She applied for a zoning clearance permit in January, and all the issues that were raised in that review were taken into account. Recently it was brought to her attention that the planned right-of-way was missed; Peoria Avenue requires a 35-foot setback from the center of the street while the actual right-of-way for this property is 30 feet. If the building is built as proposed there will be a 10'-6" setback from the existing curb to the building façade. In addition, the Variance request is so the sign can project into the planned right-of-way 6" and 10 feet above the sidewalk so it will not inhibit movement on the sidewalk. Ms. Richards believes this request is reasonable given the justifications that she is attempting to follow the guidelines of the City and procedures. Ms. Richards believes having the building close to the street will reinforce the character of the older buildings in the neighborhood.

Mr. Bond asked Ms. Richards to state her hardship. Ms. Richards stated the hardship is because of the very specific requirements of the health center and the room sizes that

by moving any walls would require the removal of an entire room. Also, given the shape of the lot and the organization of the rooms which have very specific adjacency to each other this proposal is the best option for the subject site.

Ms. Ross asked Ms. Richards if she had obtained a license agreement from the City of Tulsa. Ms. Richards answered that she has not. Ms. Ross asked Ms. Richards if she had applied for the license agreement. Ms. Richards stated she has not.

Interested Parties:

Gary McColpin, Street Operations and Inspections Manager, City of Tulsa, 175 East 2nd Street, 14th Floor, Tulsa, OK; stated the City received this notification today, and in reviewing this the City is objecting to the allowing of the 2'-6" over into the street right-of-way. There are multiple utilities that are in the street right-of-way and there is a sidewalk that this proposal will impact. The street has not been widened or rehabbed in quite some time, and by having this extend in to the street right-of-way it would basically tie the City's hands from allowing the City to utilize the full width of the rights to move the utilities or widen the sidewalk. There are existing utilities, existing telephone poles, an existing bus stop, and a handicap ramp and by having this building the City is afraid it may encroach into those areas to impact the handicap ramps or the sidewalk or the bus stop completely to the point they would need to be completely removed.

Ms. Back asked Mr. McColpin if the City is opposed to this proposal completely or does the City want this case continued so they can look at it more or does the City want the case continued until a license agreement is applied for and it is obtained? Mr. McColpin stated that he would like to see a better drawing with dimensions and would like to see the applicant secure the license agreement. This would allow the City to do a thorough review of the situation and compare it to the telephone pole, the sidewalk, how far it is off the curb, etc. Otherwise, the City would ask the Board to support their objection completely.

Rebuttal:

Deborah Richards came forward and stated the 2'-6" would technically be the 32'-6" from the centerline of the street. She has been working with a Civil Engineer and have been reviewing all the utilities. She understands the City's perspective without seeing the more specific drawings it is hard to allow the proposal. Ms. Richards stated she has contacted the City about moving the bus stop bench and have been working with them on the relocation of that, so it would not be an issue. Ms. Richards stated she would like to start the project as quickly as possible.

Gary McColpin came forward and stated that a typical license agreement takes a 30-day review time; there are about 50 people involved in the review process because it is every utility, every City department, the County, INCOG, etc. At the end of the 30-day window all the people that have an objection or an issue with the proposal are presented to the applicant to work out the issues. If there are no issues to resolve at that point of time it, then proceeds to Request for Action (RFA) at the City Council and

to the Mayor for signature on the agreement. If there are no issues the process is a straight two months.

Ms. Ross asked Mr. McColpin if the applicant would not be able to start the project if approval is given today even without a license agreement. Mr. McColpin answered affirmatively.

Deborah Richards came forward and stated that she has been under the impression that she would only need a license agreement for the items that would need to be moved out of the planned right-of-way. Ms. Richards stated that because the actual right-of-way is at the property line she does not think there are any utilities involved. She has also reviewed the proposed City multi-mogul streetscape which needs a larger sidewalk, and there would still be a lot of space with this proposal to have that type of sidewalk. Ms. Richards stated that she has come to conclusion that she still needs to work with the City and cannot ask for a decision today.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Radney, Ross "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **CONTINUE** the request for a **Variance** to permit a structure to be located within City of Tulsa planned street right-of-way (Section 90.090-A); **Special Exception** to allow signs in the planned street right-of-way/right-of-way (Section 60.020-E) to the October 9, 2018 Board of Adjustment meeting; for the following property:

N. 40 OF LT 13 ALL OF LOT 14 BLK 10; LT 12 S 10 FT LT 13 BLK 10, EAST LYNN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22485—Roberta Brown

Action Requested:

Special Exception to allow a Bed and Breakfast (short-term rental) in a RS-3 District (Section 5.020). **LOCATION:** 714 South Lakewood Avenue East (**CD 5**).

Presentation:

Herman Brown, 431 Manor Road, Prescott, AR; stated he moved here in 1976 and his wife is from Tulsa. After college they moved to Arkansas in the mid-80's and now they have four Sonic drive-ins they have been operating for the last 25 years. Mr. Brown stated that his wife still has family in Tulsa, so she comes back regularly. Last year the subject house, which had been empty for about six years, came up on an estate sale and she made an offer that was accepted. At the time of purchase, she was thinking she would remodel the house and put it back on the market, but as time progressed she thought it would be a good idea to have a bed and breakfast. Mr. Brown stated that he

has been staying in the house for about nine months while working on it, and now knows the neighbors. Mr. Brown stated that he thinks the house will be used as a true bed and breakfast about 12 times a month, and he and his wife plan on staying in the house when they are in Tulsa.

Ms. Back asked Mr. Brown how he planned on handling issues that come up at the house, i.e., at midnight. Mr. Brown stated that he is on a first name basis with the neighbors and he has told them to call the police and call him. Mr. Brown stated he also has a friend that lives at 27th and Darlington and he could call him if needed.

Ms. Back stated there have been no letters of opposition or support received for the project. In the past, the way the Zoning Code is written currently, there is not a short term rental zoning classification or direction, so as a Board the typically allows a three to five-year term to see how the operation affects the neighborhood.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Back, Bond, Radney, Ross "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a **Special Exception** to allow a Bed and Breakfast (short-term rental) in a RS-3 District (Section 5.020), subject to a five-year approval from today's date, August 14, 2023. The Board finds that the requested 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 3 BLK 5, GLENHAVEN & GLENHAVEN AMD RESUB, City of Tulsa, Tulsa County, State of Oklahoma

22486—Claude Neon Federal Signs

Action Requested:

Special Exception to allow a dynamic display in a RS-2 District (Section 60.050.2.c). **LOCATION:** 12121 East 21st Street South (**CD 6**)

Presentation:

Ed Horkey, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, OK; stated this request is for East Central Junior High School. The property is currently zoned residential. There is 660 feet of frontage for the school, and the residential area is on the south side of East 21st Street. Mr. Horkey stated that he has not heard from any of the neighbors. The message center is on the internal portion of a residential

neighborhood and the message center will benefit them. The message center will be 24'-6".

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Radney, Ross "aye"; no "nays"; "abstaining"; Van De Wiele absent) to **APPROVE** the request for a **Special Exception** to allow a dynamic display in a RS-2 District (Section 60.050.2.c), subject to conceptual plans 5.13 and 5.14 of the agenda packet. The Board finds that the requested 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:

W/2 SW SE LESS S50 FOR ST & LESS BEG SWC LT 12 BLK 5 STACEY LYNN FOURTH TH W45 S10 E45 N10 POB SEC 8 19 14 19.23 ACS, City of Tulsa, Tulsa County, State of Oklahoma

22488—David Patz

Action Requested:

Special Exception to allow the driveway width to exceed 30 feet on the lot and 20 feet in the right-of-way in an RS-3 District (Section 55.090-F.3). **LOCATION:** 7426 East 77th Street South **(CD 8)**

Presentation:

James Adair, 7508 East 77th Street, Tulsa, OK; stated he is the neighbor to the east next to Mr. Patz. Mr. Adair stated that Mr. Patz has been his neighbor for four years and in that time, he has remodeled the house. In the last couple of years, the neighbors have asked Mr. Patz to not park the family cars in the street, and even has been cited by the City for parking in the street. Mr. Adair stated that Mr. Patz then installed an extended driveway himself for family cars and his boat. Mr. Adair explained pictures of the subject driveway and the surrounding neighbors that had been presented for the agenda packet. Mr. Adair stated the character of the houses in the neighborhood is that everything is different, there are no cookie cutter houses and there are different creative driveways for the houses, so a 37-foot driveway is not out of character for the neighborhood. Mr. Adair stated the petition that was presented has 18 signatures and those signatures come from 11 different homes. All three neighbors to the east and all seven neighbors across the street in both directions has signed the petition showing support of Mr. Patz's driveway.

Interested Parties:

There were interested parties present, but they chose not to speak.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Back, Bond, Radney, Ross "aye"; no "nays"; "abstaining"; Van De Wiele absent) to **APPROVE** the request for **Special Exception** to allow the driveway width to exceed 30 feet on the lot and 20 feet in the right-of-way in an RS-3 District (Section 55.090-F.3), subject to "as built" as shown on Exhibit 1. The driveway is to remain 37'-6" wide and not to be any larger. The Board finds that the requested 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 1 BLK 7,SWEETBRIAR EAST EXT, City of Tulsa, Tulsa County, State of Oklahoma

22489—TEP – Tim Teral

Action Requested:

Variance to reduce the building street setback from 20 feet to 5 feet in an RS-5 District (Section 5.030-A). **LOCATION:** NW/c of East Latimer Street North and North Boston Avenue East (**CD 1**)

Presentation:

Tim Teral, Tulsa Engineering and Planning Associates, 9820 East 41st Street, Tulsa, OK; stated his clients will be redeveloping the surrounding area, single family detached homes. There have been a number of lot splits and lot combinations for the plat configuration. The lot itself is 45 feet wide and 130 feet deep and the current zoning is RS-5. By imposing the RS-5 setback standards of 20 feet off Boston and 20 feet off Latimer and a 5-foot internal side yard setback that only leaves 20 feet of lot width to develop, which is not easy to work with. The request is to allow the Latimer setback to be reduced from 20 feet to 5 feet giving 35 feet of lot width to develop.

Interested Parties:

There were no interested parties present.

Questions and Comments:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Back, Bond, Radney, Ross "aye"; no "nays"; "abstaining"; Van De Wiele absent) to **APPROVE** the request for **Variance** to

reduce the building street setback from 20 feet to 5 feet in an RS-5 District (Section 5.030-A), subject to conceptual plan 7.24 of the agenda packet. The Board finds the hardship to be the small lot sizes from the original plat making it difficult to meet current zoning code building setback lines. The Board finds 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 6 BLK 18, BURGESS HILL ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22490—Devin Meadows

Action Requested:

Verification of the 300-foot spacing requirement for a bar from public parks, schools, other bars, religious assemblies, and sexually oriented business establishments, and the public entrance doors 50 feet from an R-zoned lot (Section 40.050). **LOCATION:** 4131 South Peoria Avenue East – **TENANT SPACE (CD 9)**

Presentation:

Devin Meadows, 4131 South Peoria Avenue, Tulsa, OK; stated he has applied for a sidewalk café permit to fence in an area in front of the bar so there can be sidewalk seating at the subject location.

Mr. Bond asked Mr. Meadows if he would be parking motorcycles on the lot. Mr. Meadows stated that the bar has traditionally been a motorcycle bar, but he and his wife are in an effort to move it away from that. He wants it to be positioned as a Brookside neighborhood bar and be consistent with the genderfication that is going on in the area.

Mr. Meadows stated that he does not openly discourage bikers, but it is certainly not the direction he is taking the bar. He is also using the space the bikers liked to park, and this will discourage them from parking there.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Back, Bond, Radney, Ross "aye"; no "nays"; "abstaining"; Van De Wiele 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 bar subject to the action of the Board being void should another conflicting use be established prior to this bar; for the following property:

LTS 1 & 2 BLK 4, JENNINGS-ROBARDS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22491—Richard Morgan

Action Requested:

Special Exception to permit a moderate-impact manufacturing and industry facility in an IL District (Section 15.020). **LOCATION:** 11130 East 55th Place South (CD 7)

Presentation:

Richard Morgan, Accent Construction Services, Inc., 7798 East 24th Street, Tulsa, OK; stated he represents Service Properties, LLC. The building to the east is occupied by Tech Fins, Inc. and they are a heat exchanger manufacturer and they would like to expand the heat exchanger manufacturing facility. The building will be a stand alone building with its own parking and driveways.

Mr. Bond asked Mr. Morgan if the cars depicted in picture 9.11 of the agenda packet are functioning cars that are there now or is that area a parking lot. Mr. Morgan stated the subject property was used as a wrecker storage facility and it is now an empty lot.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Radney, Ross "aye"; no "nays"; "abstaining"; Van De Wiele absent) to **APPROVE** the request for **Special Exception** to permit a moderate-impact manufacturing and industry facility in an IL District (Section 15.020), subject to conceptual plan 9.13 of the agenda packet. The Board finds that the requested 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:

W190 E309.70 LT 3 BLK E, TULSA SOUTHEAST IND DIST EXT, City of Tulsa, Tulsa County, State of Oklahoma

22492—Justin Reed

Action Requested:

Verification of the 300-foot spacing requirement for a liquor store from other liquor stores, plasma centers, day labor hiring centers or pawnshops (Section 40.300-A).

LOCATION: 1649 South Yale Avenue East – **TENANT SPACE (CD 5)**

Presentation:

Justin Reed, Accurate Construction, 16528 South 333rd East Avenue, Coweta, OK; stated there is a Good Will work center next door, but it is not a day work center.

Ms. Back asked Mr. Reed if Collins was going to expand by 1,486 square feet. Mr. Reed answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Back, Bond, Radney, Ross "aye"; no "nays"; "abstaining"; Van De Wiele absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing to permit expansion of the existing liquor store 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 store; for the following property:

BEG 50E NWC SW NW SW TH E361.36 S329.64 W361.53 N329.5 POB SEC 10 19 13 2.73AC, 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 1:51 p.m.

Date approved: ~~8/28/18~~ 8/28/18


Chair