

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 943
Tuesday, October 10, 2006, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham
Henke, Chair
Stead, Vice Chair
Tidwell, Secretary

**MEMBERS
ABSENT**

Stephens

**STAFF
PRESENT**

Alberty
Butler
Cuthbertson

**OTHERS
PRESENT**

Ackermann, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Thursday, October 5, 2006, at 10:15 p.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

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

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

MINUTES

On **MOTION** of **Tidwell**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell, "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** the Minutes of September 26, 2006 (No. 942).

Mr. Henke informed the audience there were only four members present and if they needed to request a continuance for the next meeting with a full Board, they should do so at this time.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20344

Action Requested:

Variance of the requirement that illumination of a sign shall be by constant light to permit an LED message board in an RS-3 district (Section 402.B.4.b), located: 7903 East 15th Street South.

Presentation:

Mr. Cuthbertson informed the Board that staff requested a continuance to October 24, 2006 for adequate notice of this application.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** Case No. 20344 to the meeting on October 24, 2006, regarding the following described property:

S/2 SE SE NE LESS E33 & LESS S40 W597 E630 & LESSW30 FOR STS SEC 11 19 13 3.975ACS, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 20343

Action Requested:

Variance of the maximum display area permitted for a sign in an OM district from 40 sq. ft. to 59 sq. ft. (Section 602.B.4); and a Variance of the requirement that illumination of the sign shall be by constant light to permit an LED message display (Section 602.B.4.f), located: 1419 South Denver.

Presentation:

Bob Dale, 9520 East 55th Place, with Amax Sign Company, represented Tulsa Postal Federal Credit Union. They changed their charter a few years ago and decided to expand their business and open it to the public. They desire to keep a downtown location. The street frontage is over 200 ft. but only a portion is zoned OM. He asked the Board to consider the 200 ft. frontage to allow a sign more in keeping with full street frontage. They propose to present a stable and successful image by adding a constant light, changeable message center. He asked the Board to consider the size and use of the property as the hardship.

Comments and Questions:

Ms. Stead questioned Mr. Dale about the appearance of the sign, specifically regarding running or quickly changing messages. Mr. Dale replied that it would not be distracting with quickly changing messages. Ms. Stead did not find a reason to increase the size of the sign. Mr. Dunham was not opposed to a constant light, LED sign or an increase in the size. Mr. Dale asked if they could put time and temperature on the sign. Mr. Henke commented that the time and temperature are often shown as changing back and forth from one to the other rather than constant. Mr. Dale replied that there may be a way to make it constant.

Mr. Cuthbertson commented that they are allowed 2/10th of a foot of display area per foot of frontage, so with 200 ft. of frontage they are allowed 40 sq. ft. Ms. Stead noted minimal visual obstruction requiring increased size.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Tidwell**, the Board voted 3-1-0 (Dunham, Henke, Tidwell "aye"; Stead "nay"; no "abstentions"; Stephens "absent") to **APPROVE** a Variance of the maximum display area permitted for a sign in an OM district from 40 sq. ft. to 59 sq. ft. (Section 602.B.4); and a Variance of the requirement that illumination of the sign shall be by constant light to permit an LED message display (Section 602.B.4.f), with conditions for constant light (no running lights); one ground sign on the southwest corner, per plan, finding the 200 ft frontage and the proximity to CS zoning, on the following described property:

LTS 7 - 10 BLK 1, CAMPBELL ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20345

Action Requested:

Variance of the required setback for a garage facing a street in a residential district from 20 ft. to 9 ft. (Section 403), located: 2747 East 68th Street South.

Presentation:

Bill Powers, 6910 South Lewis Avenue, submitted a revised site plan (Exhibit A-1). He pointed out the sloping elevation, which puts the house 51 ½ ft. from the west property line, and a 4 ½ ft. stem wall. He stated the street surface is 3 ½ ft. further from the house than the standard alignment. He submitted photographs of houses with similar garages in the neighborhood (Exhibit A-2).

Comments and Questions:

Mr. Dunham noted the fence to the north extended closer to the street than the proposed garage. Mr. Powers stated they would have ten feet of driveway to the street.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Variance of the required setback for a garage facing a street in a residential district from 20 ft. to 9 ft. (Section 403), per plan submitted today, finding the hardship is the topography and configuration of the lot; and finding that 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, on the following described property:

LT 6 BLK 2, SOUTHERN HILLS TERRACE SUB PRT L1 B3 BRANIFF HILLS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20346

Action Requested:

Variance of the rear yard requirement in the RS-1 district from 25 ft. to 16.5 ft. to permit an addition to the rear garage (Section 403), located: 2931 South Quaker Avenue.

Presentation:

Michael Graves, stated he was the owner of the subject property. They proposed to build an addition to the rear of the house. The plan involves about a nine-foot encroachment on the rear setback. He added that his property is from a lot-split. He presented his plans to all of his neighbors and found them in support. He noted they have 66 ft. of frontage instead of the usual 100 ft. in this neighborhood A site plan was provided (Exhibit B-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** the Variance of the rear yard requirement in the RS-1 district from 25 ft. to 16.5 ft. to permit an addition to the rear garage (Section 403), per plan, finding a non-conforming lot of 66 ft. and the adjacent lot is in an RE district, and a substantial distance between the proposed garage and the neighbors garage; finding that 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 on the following described property:

LT 6 BLK 1, LORRAINE TERRACE AMD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20347

Action Requested:

Variance of the requirement that illumination of a sign in an R district be by constant light, to permit an LED message board for Marshall Elementary School (Section 402.B.4.b), located: 1142 East 56th Street South.

Presentation:

Les Pace, with Tulsa Public Schools, stated this would be an upgrade of an existing marquee, though smaller. The message would change only once or twice per week. It is important to inform the community of things going on at the school, like elections and parent conferences. Outsiders can manually change the current sign to inappropriate messages. A site plan and photographs were provided to demonstrate the upgrade (Exhibits C-1 and C-2).

Interested Parties:

Wendy Ward, 1742 East 59th Place, represented South Peoria Neighborhood Connection Foundation. They have worked with the school on several projects to improve the image. They are in support of this application.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Variance of the requirement that illumination of a sign in an R district be by constant light, to permit an LED message board for Marshall Elementary School (Section 402.B.4.b), per plan, finding that 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, on the following described property:

NE NE SE SEC 36-19-12 TR IN CITY LESS N 30 THEREOF TO PUBLIC FOR RD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20348

Action Requested:

Special Exception to reduce the required front yard from 35 ft. to 30 ft. (Section 403); and a Variance of the required rear yard from 25 ft. to 10 ft. (Section 403), located: 1780 East 30th Street South.

Mr. Dunham out at 1:39 p.m.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, reminded the Board this originally was one lot. The lot was created by a lot-split, and later re-zoned to RS-1. It became non-conforming to width and size, about 11,500 sq. ft. rather than 13, 500 sq. ft. It is trapezoidal in shape and is located on a curved street.

Mr. Dunham returned at approximately 1:41 p.m.

He submitted photographs (Exhibit D-1) to describe the challenges. He referred to letters from the neighbors in the agenda packet, stating their support.

Interested Parties:

Carol Ashcraft, 1754 East 30th Street, stated she represented several neighbors, expressing concern for the drainage problems. She added that they did not object to the variance. Mr. Henke replied that the Board cannot address drainage problems and asked if she had any concerns other than the drainage.

Applicant Rebuttal:

Mr. Norman assured the Board that the applicant has already made plans to manage the drainage. They have also communicated with the neighbors that would be involved. They will meet all of the regulations concerning this matter. Mr. Tidwell asked if it was a single-story home. Mr. Norman replied that it is a two-story home and he pointed out that one portion is single-story with very high ceilings. He added that it is well within the height limitations.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Special Exception to reduce the required front yard from 35 ft. to 30 ft. (Section 403); and a Variance of the required rear yard from 25 ft. to 10 ft. (Section 403), finding that 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 on the following described property:

LT 1 LESS BEG 90.10SW NEC TH SW84.52 NW135.38 NE83.96 NE130.12
POB BLK 17, FOREST HILLS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20349

Action Requested:

Variance of the requirement that illumination of a sign in an RS-2 district be by constant light to permit an LED message board (Section 402.B.4.b), located: 5511 South Harvard Avenue East.

Presentation:

Glen Armstrong, Business Administrator for Woodland Acres Baptist Church, proposed to replace the existing sign with an LED sign. The new sign would be significantly smaller with a constant light and the message would only change a few times per day (Exhibit E-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (Dunham, Henke Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Variance of the requirement that illumination of a sign in an RS-2 district be by constant light to permit an LED message board (Section 402.B.4.b), per plan, 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:

PRT SW NW BEG 230N SWC NW TH N506 E80 NELY252.03 SE504.36
SW71.74 W367 POB LESS W50 THEREOF FOR ST SEC 33 19 13 3.92ACS,
City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

Case No. 20350

Action Requested:

Variance to permit two dwellings per lot of record (Section 207), located: 102 South College Avenue East.

Presentation:

Rosalyn Redel, stated she is the owner of Redel Investments, LLC. There are two dwellings on the subject property. She stated she understood there was a problem with the usability of the south house, but did not have a full understanding of the problem. Both houses were rental property since 1980 without complaints until 2003. The house on the south was vacant until she refurbished it. Ms. Redel submitted photographs (Exhibit G-1) of the subject property. Both houses have their own yard and off-street parking. She canvassed the neighbors and all but three were supportive.

Comments and Questions:

Ms. Stead questioned why she did not check into the problem as she was buying the property. Ms. Redel replied that it was her understanding that she could not lease the houses separately.

Interested Parties:

Art Barber, 103 South College Avenue, submitted a color-coded site map (Exhibit G3) to signify rent houses and owner/resident houses in the area. He indicated there was a six-foot fence in the front yard of the subject property. He stated opposition to a garage apartment as it tends to cause problems as it did in the past when ten people lived in this one. He submitted a petition/letter (Exhibit G-2). He indicated other garage apartments in the neighborhood built before 1970 that are legal non-conforming.

Bill Kirk, 3166 East 1st Street, stated the owner was denied a lot-split of this property four years ago. They did not have a 25 ft. frontage.

Mr. Alberty mentioned that each dwelling would have to provide two off-street parking spaces so there would have to be a modification to the plan. There may be other variances required.

Applicant's Rebuttal:

She stated that she made great improvements in the property making an improvement to the neighborhood. She reminded the Board that the houses both face College Avenue and the fence is in the side yard.

Board Action:

On **Motion** of **Dunham**, to **APPROVE** a Variance to permit two dwellings per lot of record (Section 207), with condition for one tenant in the south house, finding the hardship to be, there are similar properties in the neighborhood; it is well maintained; and finding it meets the requirements for a variance, the motion failed for lack of a second.

Board Action:

On **Motion** of **Stead**, the Board voted 3-1-0 (Henke, Stead, Tidwell "aye"; Dunham "nay"; no "abstentions"; Stephens "absent") to **DENY** a Variance to permit two dwellings per lot of record (Section 207), finding it would 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 6 BLK 6, UNIVERSITY PARK, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Cuthbertson presented the request for a refund of \$250.00 for unneeded variances requested.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-0 (Henke, Stead, Tidwell, Dunham "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Refund for \$250.00 as recommended by staff.

Case No. 20356

Action Requested:

Special Exception to permit a bar (Use Unit 12a) on a lot within 150' of an R-district. (Section 701), located: 4133 South Peoria Avenue East.

Presentation:

Scott Brewer, 2224 East 24th Street, stated he came to this Board for spacing verification. There was an omission in the application requests. The new site does not fit the requirements in Section 701. He stated the distance from the front door to the lot line is 157 ft. but the property abuts RM-1-zoning separated by a fence. An apartment complex is located on the residential property. He reminded the Board that this was an existing business and they moved to allow Wild Oats to expand. He added that the Tulsa Health Department stated they were the cleanest bar they have inspected for the last two years. They proposed to reopen at the new site.

Interested Parties:

Herb Beattie, 3474 South Zunis, represented the Brookside Neighborhood Association. He stated this business has been a good neighbor. The association was in support and thought the spacing was correct when they came to the

previous hearing. They support the rule and want to be sure that all bars in the Brookside area have received a consistent application of the rule.

Comments and Questions:

Mr. Cuthbertson clarified this is not a spacing requirement as much as a buffer zone that triggers a check for the Board to review bars on a case by case basis.

Joe Moura, 300 West 111 Street, Jenks, Oklahoma, stated he owns the apartment complex behind the proposed establishment. He opposed the bar for the noise that would disturb his tenants. He did not consider the fence to be a buffer for the front of his complex.

Tim Clark, 4129 South Peoria, Suite 200, stated he is a principal with the corporation that owns the subject property. He pointed out the property is zoned CH. He has found these uses to mix well in this area and found it is consistent with the Brookside Infill Development Recommendations. He noted that 41st Place is the only ingress and egress for the bar and the apartment complex has a separate entrance.

Comments and Questions:

Mr. Dunham asked if there would be any outside seating or activities. Mr. Clark replied the parking lot would only be used for parking.

Applicant's Rebuttal:

Mr. Brewer stated the rear entrance would be only for service, delivery and an emergency exit. The front entry on the west side of the building will be for public entrance. They would not have live music just a jukebox. He responded to a question from Ms. Stead that there would be no parking at the front on Peoria.

Interested Parties:

Noemia Moura, 300 West 111th Street, Jenks, Oklahoma, stated she is Joe Moura's wife. They have worked hard to provide the best possible housing at the apartment complex. She added that her experience has shown that a bar is not quiet at night. She expressed concern for loitering in the bar parking lot after hours. She was in opposition to the application.

Mr. Tidwell asked for the hours of the bar. Mr. Brewer stated they would close at the bartender's discretion but usually around 11:00 p.m. on Sunday through Thursday and 2:00 a.m. on Friday and Saturday. Mr. Brewer did not want tight limitations on the hours but they wanted to compromise.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a Special Exception to permit a bar (Use Unit 12a) on a lot within 150' of an R district. (Section 701), with conditions for no outside activity on the east but parking; the

special exception would be permitted for one space in this center not to exceed 1,500 sq. ft; limiting approval to 3 yrs.; hours of operation on Monday through Thursday would have a closing time of 12:00 midnight and on Friday, Saturday and Sunday to close no later than 2:00 a.m.; finding that 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, on the following described property:

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

There being no further business, the meeting was adjourned at 3:10 p.m.

Date approved: 10/24/06

Frank X. McE
Chair

