

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 947
Tuesday, December 12, 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
Stephens
Tidwell, Secretary

**MEMBERS
ABSENT**

**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, December 7, 2006, at 2:59 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.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20395

Action Requested:

Verification of spacing requirements for a liquor store of 300 ft. from another liquor store, blood banks, plasma centers, day labor hiring centers, and pawn shops (Section 1214.C.3), located: 2305-B West Edison.

Presentation:

Mr. Cuthbertson informed the Board the applicant requested a continuance, though not in a timely manner. They decided at the last minute to change spaces within the shopping center, which will require new notices.

Board Action:

On **MOTION** of **Stead**, the Board voted 5-0-0 (Dunham, Henke, Stead, Stephens, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20395 to the meeting of January 9, 2007.

LT 1 BLK 1, GILCREASE HILLS CENTER, City of Tulsa, Tulsa County, State of Oklahoma

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MINUTES

On **MOTION** of **Tidwell**, the Board voted 5-0-0 (Dunham, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of November 14, 2006 (No. 945).

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UNFINISHED BUSINESS

Case No. 20373

Mr. Henke stated that without objection the Board would hear Case No. 20373 after Case No. 20388.

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Case No. 20383

Action Requested:

Variance of the Maximum permitted height in an RM-2 district from 35 ft. to 40 ft. to permit an addition to the McFarlin Library, located: Center of the TU campus, southwest of the intersection of East 5th Street & South Florence Avenue.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, mentioned this case was continued to this meeting to request additional relief of the height requirement. He commented that the university has taken the position that the height limitation in an RM-2 district was never intended to apply to university or church buildings approved by the Board as a special exception in individual districts.

Comments and Questions:

Ms. Stead asked if the applicant was agreeable to make the approval per plan (Exhibit B-1) according to applicant exhibits A, B, and D. Mr. Norman agreed.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a

Variance of the Maximum permitted height in an RM-2 district from 35 ft. to 40 ft. to permit an addition to the McFarlin Library, in accordance with plans submitted and applicant exhibits A, B and D, finding the Master Plan has been approved by various local authorities and the variance 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:

A Tract of Land that is all of Blk 9 and part of Blocks 13 and 14 along with parts of the vacated streets and alleys adjacent thereto within 'College Addition', an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, said tract of land being more particularly described as follows, to-wit:

"Beginning at a point" that is the northeasterly corner of said Block 9; Thence southerly along the easterly line of Block 9 and a southerly extension thereof for 350 ft. to a point on the northerly line of said block 14; Thence westerly along said northerly line for 200 ft; Thence southerly for 300 ft. to a point on an easterly extension of the southerly line of said Block 13; Thence westerly along said extension and along the southerly line of Block 13 and the vacated alley therein for 340 ft.; Thence northerly along the westerly line of said vacated alley in Block 13 and a northerly extension thereof for 350 ft. to a point on the southerly line of Block 10 in said 'College Addition'; Thence easterly along said southerly line of Block 10 for 160 ft to the southeasterly corner of Block 10; Thence northerly along the easterly line of said Block 10 for 300 ft. to the northeasterly corner of Block 10; Thence easterly along a westerly extension of the northerly line of said Block 9 and along the northerly line of Block 9 for 380 ft. to the POB of said tract of land.

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Case No. 20385

Action Requested:

Special Exception to permit Use Unit 5 – a Museum parking lot in an RS-3 district (Section 401); and a Variance of the requirement that parking areas shall be surfaced with an all weather material to permit special event parking on the lot prior to the construction of the permanent parking lot (Section 1303.D & 222), located: 2530 West Newton.

Presentation:

Mark Kinney, 320 South Boston, with Cyntergy, informed the Board that on Friday, December 8, 2006, they held a meeting, to which they invited the neighbors. They reviewed the landscaping plan and issues regarding pedestrian safety on West Newton. He stated that he contacted Traffic Engineering regarding the pedestrian crossing on West Newton. They responded that because of the low volume of traffic and West Newton being a dead-end street, permanent traffic control devices were not necessary at this time. He added that temporary signage and an attendant at the intersection per each event might be advisable. Landscape, site plans and letters were provided (Exhibits C-1, C-2, C-3)

Gary Moore, Gilcrease Museum, 400 Gilcrease Museum Road, stated the neighbors that attended the open meeting were not interested in permanent large,

flashing signs. They were interested in the temporary signage per event. They have used TPD attendants for large events, such as Gilcrease Rendezvous.

Comments and Questions:

Ms. Stead asked for a completion date for the permanent construction. Mr. Moore replied that the completion date would be December 31, 2007.

Interested Parties:

Alan Weeks, 1100 North 27th West Avenue, stated the two-week continuance was helpful. He added that the open meeting was very constructive. They reviewed the landscape plans and found them acceptable. The neighbors were in favor of a temporary signage. He suggested a review in the future of the usage of this parking lot and the impact on the neighborhood.

Ms. Stead questioned why it would impact his neighborhood. He replied that it would cause some inconvenience with the ingress and egress of the neighborhood; additional noise, and headlight issues if it were used on a daily basis.

Board Action:

On **Motion of Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit Use Unit 5 – a Museum parking lot in an RS-3 district (Section 401); and a Variance of the requirement that parking areas shall be surfaced with an all weather material to permit special event parking on the lot prior to the construction of the permanent parking lot (Section 1303.D & 222), per plan and landscape plan, subject to Kennebunkport lighting, with conditions: all-weather surface be completed by December 31, 2007; and for safety concerns the museum will furnish temporary signs or TPD off-duty officers to handle traffic during overflow events; 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, on the following described property:

NW/4 NW/4 NE/4 NE/4 of Section 33, T-20-N, R-12-E, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

Case No. 20308-A

Action Requested:

Minor Special Exception to modify conditions of a previously approved Special Exception to remove the sidewalk requirement, located: 10834 East Admiral Place.

Presentation:

Dan Hayes, with Oklahoma Custom Canvas, 10834 East Admiral Place, stated he discussed this case with Public Works regarding the sidewalk and safety issues. There is no curb on East Admiral and there is a deep drainage ditch. There is a requirement to move the sidewalk seven feet from the pavement. He stated that to move the sidewalk seven feet back it would put the sidewalk in the ditch. He added this brings up issues involving drainage in the area.

Interested Parties:

Wayne Bohannon, 10617 East 1st Street, stated he is the President of Wagon Wheel Neighborhood Association. They are in support of Oklahoma Custom Canvas in their area. They asked the Board to consider delaying their decision in this matter until the City of Tulsa builds additional curbing and drainage next to the building.

Ms. Stead sought input from staff concerning this case. Mr. Alberty explained the City Public Works Department has created an opportunity to allow funds in an escrow account to apply to such a need. He was unsure if they have established the account yet to allow for the administration of funds.

The Board discussed the options for a decision, whether to delay a decision or waive the requirement.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DELAY** a decision on removing the sidewalk requirement for a period of one year from today's date, December 12, 2006; the Board has no objection to a certificate of occupancy being issued; re-evaluation at the end of one year as to whether specific funds can be placed in a specific account for a sidewalk requirement on this property; and that such re-evaluation will carry no application fee for processing, on the following described property:

LT 1 BLK 1, WAGON WHEEL TRADE CENTER, City of Tulsa, Tulsa County,
State of Oklahoma

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Case No. 20387

Action Requested:

Variance of the requirement that a sign in an RS-2 district shall be illuminated by constant light to permit an LED message board sign (Section 402.B.4.b), located: 3213 East 56th Street South.

Mr. Tidwell out at 1:48 p.m.

Presentation:

Les Pace, with Tulsa Public Schools, stated that they do not allow flashing signs for the schools. They do not purchase the computer program that creates the flashing lights. A site plan was provided (Exhibit D-1).

Mr. Tidwell returned at approximately 1:50 p.m.

Comments and Questions:

Ms. Stead asked if they planned to remove the existing sign, to which Mr. Pace replied they would.

Interested Parties:

Camille Quinn, represented her parents, Terry and Juanita Quinn, who live directly across the street from the sign location. She expressed concern for the location of the sign that it may obstruct the view of drivers and that it would be distracting to drivers. She stated there is a lot of vehicular and pedestrian traffic. Mr. Cuthbertson noted to the Board that if this sign did not have an LED message board, it would be permitted where it is proposed.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-1 (Dunham, Henke Stead, Tidwell "aye"; no "nays"; Stephens "abstained"; no "absences") to **APPROVE** a Variance of the requirement that a sign in an RS-2 district shall be illuminated by constant light to permit an LED message board sign (Section 402.B.4.b), with condition that it not have flashing or moving message, per plan, finding they have met the requirements 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:

E199.5 S200.5 SE NE LESS E50 N170.5 & S30 FOR STSSEC 32 19 13
.585AC, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20388

Action Requested:

Special Exception to permit church use in an RS-3 district (Section 401); Special Exception to modify the screening requirement of a church pkg lot from an adjoining R district (Section 212.C); Variance of the setback of a parking lot in an R district from the centerline of an adjoining street (Section 1302.A); and a Variance of the 25 ft. setback of a church from an adjoining R district (Section 404.F.4) located: 3500 South Peoria Avenue East.

Mr. Stephens recused himself from Case No. 20388.

Mr. Henke out at 1:56 p.m. and returned at 1:57 p.m. Mr. Stephens out at 1:57 p.m.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, represented South Minster Presbyterian Church. They have been before the Board previously for expansion.

Mr. Dunham out at 2:01 p.m.

Mr. Norman reviewed the proposal and site plans (Exhibits E-1 through E-6), noting nearby residential property, the floor are of the new activity center of 25,000 square feet. He provided photographs (Exhibit E-1a).

Mr. Dunham returned at 2:04 p.m.

Mr. Stephens returned at 2:08 p.m.

Mr. Norman stated they determined the maximum occupancy would require 141 off-street parking places. There will be only one driveway with a gate into the new parking lot to prevent parking except for the church users. The neighbors expressed a desire for heavy vegetation toward their property instead of fencing to prevent traffic and discourage undesirable activities. The applicant would provide lighting using the Kennebunkport formula, being limited to twelve feet in height and an provide eight-foot solid fence to the Ashcraft property, 1127 East 35th Place. The applicant entered into a twenty-five year parking agreement with Aberson Development Company to utilize the remainder of the church's parking to support the commercial uses along South Peoria and along 34th Street and 35th Place.

Ms. Stead asked if the gate would be solid or wrought iron. Mr. Norman replied that they planned to put in a solid fence to satisfy the neighbors' request to block vehicle headlights.

Interested Parties:

Jeff Kraemaer, 1103 East 35th Place, He stated he would prefer an eight-foot fence to his property. Mr. Norman replied that they would not object to constructing an eight-foot fence on the west side.

Mr. Cuthbertson noted that the site plan is inconsistent with Mr. Norman's presentation. The site plan showed the parking lot would be set back 50 ft. from the centerline of 35th Place. Mr. Norman informed him that is inaccurate and the setback is actually 40 ft. from the centerline.

John Coward, 3504 South Norfolk, stated he has been to both meetings with the church. He commends the church for listening and responding to the desires of the neighbors. They have been concerned about vandalism and other crime in the area. They also have not appreciated vehicle and pedestrian traffic making a short-cut through the subject property. They expect dense vegetation will prevent this.

Mr. Henke out at 2:19 p.m. and returned at 2:20 p.m.

Cathy Corff, 1119 East 34th Street, was in agreement that vegetation is needed to prevent traffic cutting across the property. She questioned the need for more parking.

Faye Sheeter, 1120 East 35th Place, stated a parking lot on 35th Place would be a hardship to the neighborhood because there is on-street parking. It is already like a one-way street. She added there is a bar on the corner with a lot of pedestrian traffic.

Herb Beattie, 3474 South Zunis Avenue, stated the Brookside Neighborhood Association's appreciation for the efforts of staff and the church to work out a solution that will fulfill the needs of Southminster Presbyterian Church. He stated the association's support of the application.

Carol Ashcraft, stated she was not notified of the neighborhood meeting with the applicant. She added that she has talked with Mr. Norman. She was concerned for her rental property next door and felt that an eight-foot fence is necessary for her renters' privacy. She felt the gate was too close to her property and would be a problem. She also pointed out the twelve-foot light would affect her property where a bedroom is located. Ms. Ashcraft noted there is a gymnasium proposed in the plan, which would accommodate community services and more than the usual church services.

Pamela Deathridge, 1516 East 36th Street, stated she is a member of the church and a member of the building committee for this project. She added that these improvements will be good for the church and surrounding commercial uses. There are sidewalks around the existing church facilities that pedestrians are using. Mr. Tidwell asked about the location of the gate to the new parking lot. Ms. Deathridge responded that the gate was designed at this location to accommodate the neighbors at the meetings.

Applicant's Rebuttal:

Mr. Norman stated they would be willing to amend the site plan to add a fence to the north side of the new building to prevent pedestrians from walking from 34th Street to 35th Place. The majority of the neighbors requested the location of the gate as shown in the plan. The applicant has offered to purchase Ms. Ashcraft's property and the church would pay for two appraisals, one appraiser of her choice and one selected by the church. He stated the applicant has been willing to honor the requests of the neighbors and worked to meet the ordinances.

Interested Parties:

Martha Tarwater, 3516 South Norfolk, was permitted to make a comment. She stated that other interested parties wanted a fence built instead of the dense foliage on Norfolk. Mr. Norman responded that the neighbors asked for the foliage.

Board Action:

On **Motion of Stead**, the Board voted 4-0-1 (Dunham, Henke, Stead, Tidwell "aye"; no "nays"; Stephens "abstained"; no "absences") to **APPROVE** a Special Exception to permit church use in an RS-3 district (Section 401); Special Exception to modify the screening requirement of a church pkg lot from an adjoining R district (Section 212.C); Variance of the setback of a parking lot in an R district from the centerline of an adjoining street (Section 1302.A); and a Variance of the 25 ft. setback of a church from an adjoining R district (Section 404.F.4), subject to the following: reconstruction or continuous maintenance of sidewalks along 35th Place and 34th Street adjoining church property; per plan except, the actual setback on 35th Place is 40 ft. instead of 50 ft. shown on the exhibits; subject to applicant's exhibits A, B, C, D, E and F; along west property line between new church parking lot and Ashcraft property, 1127 East 35th Place, an 8 ft. fence will be constructed; a 6 or 8 ft. fence will be constructed east of the northeast corner of Norfolk and 35th Place, as agreed by the owner and applicant; a 6 ft. fence along northwest corner of the new building addition north to the adjoining property line and east to the southeast corner tying in with the existing church fence; finding that the variances and special exceptions granted are extraordinary and exceptional conditions, and these conditions do not apply generally to other properties in the same use district, and these will not cause substantial detriment to the public good or impair the purpose, spirit and intent of the Code or the Comprehensive Plan, on the following described property:

The E 400' of a 25' Reserve Area lying directly north of Lots 1-4; the N 140' of Lot 1 and the E 37.5' of the S 140' of Lot 1; all of lots 2, 3, and 5; the N 140' of Lot 4; the N/2 of Lot 6 and the N 15.08' of the W 170' of the S/2 of Lot 6; all in Block 2, Peoria Gardens Addition and Lots 53-56, Block 1, Burgess Acres, City of Tulsa, Tulsa County, Oklahoma

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Case No. 20373

Action Requested:

Variance of parking requirements for restaurant use in place of permitted retail establishments (Section 1212.D), located: Southwest of East 34th Street and South Peoria Avenue and the Northwest corner of East 35th Place and South Peoria Avenue.

Mr. Stephens recused himself from Case No 20373. Mr. Stephens out at 2:58 p.m.

Presentation:

William R. Grimm, 610 South Main, represented the applicant, Aberson Development, LLC. He had agreed to a continuance of this case to this date so the Board could hear the Southminster Presbyterian Church case first. They propose a 2,500 sq. ft. restaurant on the north and south corners of the subject property. He worked with Mr. Cuthbertson to revise the parking plans (Exhibit A-

1). He indicated they have the parking agreement with the church and will have enough parking spaces to meet the requirements for the development. He assured the Board they would stripe the parking spaces accurately.

Interested Parties:

Phil Marshall, 4319 South Quincy Place, with the Brookside Neighborhood Association, prepared an allocation of the parking spaces (Exhibit A-1). He felt it would help for future reference when construction and uses change. He wanted assurance there is adequate parking for this application. Mr. Tidwell asked Mr. Grimm if he agreed with the allotment provided by Mr. Marshall. Mr. Grimm responded that the parking spaces are correct with consideration of a variance given for the KoKoa Chocolatier.

Herb Beattie, 3474 South Zunis Avenue, stated the Brookside Neighborhood Association endorses Mr. Aberson's request before this Board today. They expect the project will dramatically improve things in their neighborhood.

The Board received two letters (Exhibit A-2).

Board Action:

On **Motion of Stead**, the Board voted 4-0-1 (Dunham, Henke Stead, Tidwell "aye"; no "nays"; Stephens "abstained"; no "absences") to **APPROVE** a Variance of parking requirements for restaurant use in place of permitted retail establishments (Section 1212.D), in accordance with requests for future use at the southwest corner of 34th Street and South Peoria and the northwest corner of east 35th Place and South Peoria; all parking spaces on schematic be striped, per plan, finding the lease agreement between Southminster Church and Aberson's provides sufficient parking as shown on the revised Center One parking schematic, dated 12-05-06; and in accordance with the Brookside Neighborhood Association showing of number of parking spaces submitted 12-12-06 by Mr. Phil Marshall; 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:

A tract of land that is part of Lt 55 of 'Burgess Acres Addition', starting at NE/c of Lt 55; TH W alng Nthly ln of Lt 55 25.50 ft. to POB, TH S 00° 00' 20" E and parallel w/ Estrly ln of Lt 55 for 71.75 ft. to pt on Sthly ln of Lt 55, TH W alng Sthly ln 124.95 ft. to pt that is 24.55 ft. Estly of the Wstly ln of Lt 55; TH N 00° 00' 20" W and parallel with said Wstly ln 71.75 ft. to pt on Nthly ln of Lt 55; TH E alng Nthly ln 124.95 ft. to POB; W170 of the S34.92 LT 6 & LT 7 LESS E10 FOR ST BLK 2, PEORIA GARDENS ADDN AMD, City of Tulsa, Tulsa County, State of Oklahoma

LT 1 BLK 1, SOUTH FORTY, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20390

Action Requested:

Variance of the required rear yard from 25 ft. to 10 ft. (Section 403), located: 2102 East 30th Place South.

Presentation:

Alan Madewell, 5314 South Yale, represented the owners of the subject property, Craig and Tammy Diesenroth. They proposed to expand the garage into the back yard setback. He pointed out it is corner lot with an odd-shaped configuration from a curved street. They could build a detached garage but it would not be in character with the neighborhood. An attached garage would also increase the distance between the garage and the neighboring structure to 15 ft., which is similar to other existing properties in the neighborhood. He also noted that the setbacks of the house do not conform to the newer zoning ordinances. A site plan was provided (Exhibit G-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the required rear yard from 25 ft. to 10 ft. (Section 403), per plan, finding it is a non-conforming lot and the original house was constructed prior to the existing code, and this is the only way this addition could be added on; 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 8 BLK 19 , FOREST HILLS, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20391

Action Requested:

Minor Variance of the required rear yard in an RS-1 district from 25 ft. to 20 ft. to permit an addition (Section 403), located: 3832 South Atlanta Place East.

Presentation:

Jack Arnold, 7310 South Yale, Registered Architect, stated this is a small addition to the house. He indicated all the neighbors are in support. They proposed to add a garage with a game room above. A site plan was provided (Exhibit H-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Minor Variance of the required rear yard in an RS-1 district from 25 ft. to 20 ft. to permit an addition (Section 403), per plan, finding this is an existing house and finding the minor variance 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:

PRT LT 15 BROADMOAR BEG NLY COR LT 15 TH SELY40.37 SW20.76
N41.99 POB & S105 N499 E135 NW SW LESS PRT BEG SWC THEREOF
TH N5 E68.71 NE70.29 S28.38 W 135 POB SEC 20 19 13, City of Tulsa, Tulsa
County, State of Oklahoma

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Mr. Dunham out at 3:32 p.m.

Case No. 20392

Action Requested:

Variance of the required front setback from the centerline of an abutting street in a CO district from 200 ft. to 120 ft. (Section 803), located: 706 South 129th Avenue East.

Presentation:

Mike Marrara, 2001 South 114th East Avenue, Harden and Associates, stated the property was recently zoned to Corridor zoning. He indicated the hardship is that the lot is not large enough to allow a 200 ft. setback and still have room for proper landscaping, screening and possible on-site detention. He stated that the setback requested would be consistent with the other building setbacks on this street. A site plan was provided (Exhibit I-1).

Mr. Dunham returned at 3:36 p.m.

Comments and Questions:

Ms. Stead had questions regarding screening. Mr. Alberty responded that perimeter screening is required and adds an extra layer of control.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the required front setback from the centerline of an abutting street in a CO district from 200 ft. to 120 ft. (Section 803), per plan, finding the variance is necessary by reason of extraordinary or exceptional conditions or circumstances as the size of the lot, the corridor district requirements of setbacks, which would allow the owner to develop less than half the rear portion of the property; 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:

S/2 NE NE SE SE LESS E50 FOR ST SEC 5 19 14 1.06ACS, City of Tulsa,
Tulsa County, State of Oklahoma

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Case No. 20393

Action Requested:

Variance of parking requirements in a commercial shopping center to permit the expansion of an existing restaurant (Section 1212.D), located: 8040 South Memorial Drive.

Presentation:

Lou Reynolds, 2727 East 21st Street, represented the applicant. He provided a lease plan and photograph (Exhibits L-1 and L-2). Mr. Reynolds indicated except for the month of December they have more than adequate parking spaces available during their busiest hours. The expansion includes a no-smoking area.

Comments and Questions:

Ms. Stead asked about the hours of operation. Mr. Reynolds stated the hours for Paddy's are approximately 11:30 a.m. to 12:00 midnight. Mr. Dunham noted two tenants wrote letters of support.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of parking requirements in a commercial shopping center to permit the

expansion of an existing restaurant (Section 1212.D), finding a considerable difference in the peak loads of parking between the remainder of the tenants; and finding the literal enforcement of the terms of the code would result in an unnecessary hardship, 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 1 BLK 1, FAMCO HEIGHTS, City of Tulsa, Tulsa County, State of Oklahoma

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Mr. Tidwell out at 3:49 p.m.

Case No. 20394

Action Requested:

Special Exception to permit a Bed and Breakfast in a residential district (Section 401); a Variance to permit special events at a Bed and Breakfast in an RS-2 district (Section 1202.C.8.f), located: 506 West Fairview Street.

Presentation:

Darell and Francoise Christopher, 506 West Fairview Street, they sent letters to their neighbors and attempted to meet with all of them. They met with the neighborhood association president on several occasions. He added they held a meeting at the Kennedy Mansion to address their concerns. They restored the home and his family will be residing there and they do not propose to add any structures to the property. He submitted letters of support (Exhibit J-3), including one from their City Councilor, Jack Henderson, strongly supports this application.

Mr. Tidwell returned at 3:52 p.m.

They proposed to provide for all of the parking on the subject property. They plan for only small occasional special events with a limited number of guests, besides the bed and breakfast.

Comments and Questions:

Upon questioning from the Board, Mr. Christopher indicated one special event per month would be the average and he would accept that limitation. He has considered traffic control for parking on-site only and perhaps speed bumps. He pointed out that the property is not the typical RS-2 zoned property, pointing out the location of the highway, surrounding RM zoning and the stub street.

Interested Parties:

Edwinia Gilliam, 569 North Country Club Drive, stated she attended the initial neighborhood meeting. She stated the twenty-five parking spaces would compromise the integrity of the house. She was supportive of the Bed and

Breakfast but expressed concern regarding twelve special events per year, regarding traffic. She submitted affidavits (Exhibit J-3) to the Board.

David Denim, 606 North Osage Drive, submitted photographs (Exhibit J-2) to describe this unique neighborhood. He and his wife were in favor of the bed and breakfast but not the events. He expressed concern for on-street parking and preserving the width of the street for emergency vehicles.

Sandra Crisp, 708 North County Club Drive, stated they plan to build a home at this address. They were opposed to the parking on-site. She was in support of the bed and breakfast and special events with parking on the nearby church parking lots.

Rita Duncan, 330 East Xyler Street, stated this project is good for economic development. She was in support of the bed and breakfast and special events in this part of the city.

Debbie Sanditen, 1611 South Carson, she was in support of the application, especially for corporate use.

Mark Newman, 1107 East 19th Street, noted the property is bordered by vacant land on three sides. In support of the on-site parking with good screening.

Stacey Bayles, 1532 South Troost, was in support of the bed and breakfast and special events.

Mr. Henke out at 4:34 p.m. and returned 4:35 p.m.

Mel Gilliam, 569 North Country Club Road, stated they need to change the zoning classification for this property, as this use is not in compliance with the current zoning designation. He did not want this application to set a precedent.

Cathy Collins, 3147 South Zunis, was in support of this application. She felt that it would require special events to keep the bed and breakfast going. She expressed her understanding of this application, as she was a partner in the McBirney Mansion Bed and Breakfast, which was also located in a residential district. She stated they had 12,000 square feet and a ballroom that could accommodate 200 people. Their limit was 20 events per year for over 50 people. They had unlimited events of less than 50 people.

Applicant's Rebuttal:

Mr. Christopher responded that they thought if they could contain everything within their property it would be best for everyone. He added they did not want to have large events.

He replied to Ms. Stead that they would be agreeable to a five-year limit on this approval to allow the Board to revisit the application in an attempt to ensure the proposed use's compatibility.

Board discussion ensued.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a Bed and Breakfast in a residential district, 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.

Mr. Dunham stated that a variance would permit special events in an RS district. Mr. Alberty interjected that the zoning code prohibits the Board from granting a principal use variance. He stated the principal use is the residential, with the variance for an accessory use. Mr. Alberty also pointed out regarding the specification of an RE and an RS district, the intent of the code was to limit Bed and Breakfast special events in an established residential district. He stated you would not want to do this in the middle of an established residential district. The Comprehensive Plan calls for medium intensity and this is not going to be strictly single-family residential district. The current was pre-zoning, there is RM-2 zoning surrounding the property and this property could easily be considered for RM-2 zoning and there would not even be a question. In RM-2 zoning the prohibition would not be considered.

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance to permit special events at a Bed and Breakfast in an RS-2 district, per plan, the property in either capacity will be owner/operator; owner will live on the premises; and in accordance with Section 1202.C.8 of the zoning code, this is subject to the letter of 12-06-06 from Darell Christopher, specifically: a) owner to maintain a registry of guests, the maximum stay per guest is 30 days per year; any sign is limited to two square feet; limited to four guest rooms per applicant's letter; no cooking facilities in the guests rooms, meals to be served to Bed and Breakfast guests only; special events are limited to 50 guests at any special event; approval is for a period of five years, to be reviewed by the Board at that time; subject to the parking plan submitted; operator/owner shall encourage no parking on residential streets and will provide valet parking for large events, finding that the surrounding zoning pattern suggests this is not a typical residential neighborhood; that such 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:

34-20-12 PART LOT 3 OF 35-20-12, PART NE SE 34-20-12 DESC AS:BEG
301.5' N & 103' W OF SE/C OSAGE COUNTY-W 256.49'-N 287.51'-E 128.87'-
S~E TO A PT 130' W OF 96 TH MERIDIAN-S 139.77' TO POB, City of Tulsa,
Tulsa County, State of Oklahoma

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Case No. 20397

Action Requested:

Modification of a previously approved site plan to add to an existing recreational building, located: East of 6363 South Trenton Avenue.

Presentation:

Roger Gerstenberger, 6363 South Trenton, represented Metro Christian Academy. They proposed to modify the building with an addition of 3,200 sq. ft. to the existing structure for an indoor practice facility for athletic teams. It would be a seamless modification. He submitted plans and photographs (Exhibits K-1 and K-3). The Board approved the existing structure in 2005 and it has been in operation since it was completed. The applicants met with the neighborhood association, approximately 25 residents attended. Rick Westcott, City Councilor and the Parks Department representative attended. He submitted the letter from the Southern View Neighborhood (Exhibit K-2).

Interested Parties:

Ronnie Early, 6311 South Utica Avenue, stated he does not object to the building. He expected it to be a good addition to the neighborhood. He indicated he has had some problems with electrical power since construction of the existing building. He suggested the applicant should deal with that issue. He mentioned some drainage issues that they need to address. He expressed concern regarding existing lighting issues. Mr. Early was in support of the security fencing.

Applicant's Rebuttal:

Mr. Gerstenberger responded that this was the first time he heard about an electrical issue. He stated they would contact the electric company. He assured the Board they would deal with any drainage issues. He added there would be no change of grade and no fill.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (Dunham, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Modification of a previously approved site plan to add to an existing recreational building, marked 15.5 and 15.6 in the agenda packet, per plan, on the following described property:

PRT SW NE BEG 305S NWC SW NE TH E585.03 S580 W585.05 N580 POB
SEC 6 18 13 7.79AC, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 5:17 p.m.

Date approved: 2/13/07

Frank X. NLS
Chair

