

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 949
Tuesday, January 23, 2007, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

White
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, January 18, 2007, at 2:43 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

There were no minutes on the agenda.

NEW APPLICATIONS

Case No. 20409

Action Requested:

Variance of the maximum permitted display area for signs in the OM/PUD district and a Variance of the total number of signs permitted on a lot in the OM district (Section 1103.B.2.a & 602.B.4) to permit two signs on the property with an aggregate display surface area of 309 sq. ft., located: 5727 South Lewis Avenue East.

Presentation:

Lou Reynolds, 2727 East 21st Street, Suite 200, represented the building owner. The office building has approximately 120,000 sq. ft., and the Bank of Oklahoma occupies about 30,000 sq. ft. The bank intends to occupy more of the building as it becomes available. There is 600 ft. frontage. They requested approval for two wall signs. Mr. Reynolds pointed out the unique situation because of the rigid and narrow OL signage standards. He added that the drive-in is on the front of the property and they would not lose any parking spaces as a result of that addition. The applicant provided a site plan (Exhibit A-1).

Comments and Questions:

Mr. Reynolds responded to questions from the Board, stating the sign would have back lighting, and no flashing lights. He replied the hardship is based on the 600 ft. of frontage along the arterial street. He explained that they could be six lots under the OM zoning and each would allow 160 sq. ft. of signage. They are only asking for two signs, less than half of the total if they had developed as six small office buildings. He responded that it will be a full-service bank and will remain primarily office use.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the maximum permitted display area for signs in the OM/PUD district; and a Variance of the total number of signs permitted on a lot in the OM district (Section 1103.B.2.a & 602.B.4) to permit two signs on the property with an aggregate display surface area of 309 sq. ft., per plan (G-1.0), finding that the future use and size of the facility necessitates the variance; 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 variances 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 BLK 1, ONE SUMMIT PLAZA, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20410

Action Requested:

A Variance of the required side yard setback from 10 ft. to 6 ft. 4 in. in an RS-2 district (Section 403), located: 3214 South Yorktown Avenue East.

Presentation:

Mark Nelson, 1645 South Boston, represented the applicant, **James Petrikin**. He stated the issue is the addition that was built in the 1980's within six feet and 4 inches of the side property line. They proposed to add-on to the rear of the house, which would be within seven feet and two inches of the property line. The site plan and applicant's exhibits were submitted (Exhibits B-1 and B-2).

James Ronald Petrikin, 3214 South Yorktown, stated a previous owner did an extensive remodeling project. The proposed project would complete the house and increase the value.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the required side yard setback from 10 ft. to 6 ft. 4 in. in an RS-2 district (Section 403), per plan, 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 8 BLK 5, BREN-ROSE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20411

Action Requested:

Variance of the minimum permitted average lot width in an RS-3 district from 60 ft. to 51.22 ft. to permit lot splits (Section 403), located: 2012 & 2016 West 57th Street.

Presentation:

Darrell Brown, 4946 South Union, represented RealPro Limited Liability Co. He submitted a survey and other exhibits (Exhibits C-1 and C-2). The area was replatted some years ago, reducing the lot sizes to 40 ft. Two houses were built on

Lots 13 and 14 in Block 3 at odd angles in 1992. The contractor using the wrong rear pins built the house across lot lines. Lots 16 and 17 have a slope. Referring to the survey of the property, he explained how they proposed to straighten the lot lines.

Comments and Questions:

Mr. Alberty informed the Board this is the first step of two. They will apply for lot-splits next.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the minimum permitted average lot width in an RS-3 district from 60 ft. to 51.22 ft. to permit lot splits (Section 403), according to the survey dated December 13, 2006, finding the irregular shape of the lots and previous errors constitute a hardship; finding the literal enforcement of the terms of the code would result in an unnecessary hardship, and that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district; 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 16 & SWLY DIAGONAL HALF LT 15 BLK 3, LT 17 BLK 3, WOODVIEW HEIGHTS AMD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20412

Action Requested:

Variance of the parking requirements to permit a health club and smoothie bar in the existing building (Section 1219.D), located: 4821 East 11th Street South.

Presentation:

Walter Tempinski, an architect with Oakleaf Designs, 3319 South Yorktown Avenue, stated this was previously a Rapid Lube, with 39,000 sq. ft. They propose to add a two-story addition with 730 sq. ft. Their plans are for an exercise gym and a smoothie bar, with 24-hour operation for the gym and day/evening hours for the smoothie bar. Mr. Tempinski suggested that the smoothie bar was an accessory use and if permitted as such, would reduce the parking required by four spaces. He stated the hardship is the narrowness of the lot and being a corner lot decreases their ability to provide parking. He informed the Board the applicant has some verbal agreements with neighboring businesses to the west and south for

overflow parking. The applicant provided an amended site plan and other exhibits (Exhibits D-1 and D-2).

Interested Parties:

Dennis Whittaker, 111 South Greenwood, Urban Development, stated they are continuing to implement the Vision 2025 Plan with their resources. He added that they held two public meetings together with the area around the subject property. They sought input from property owners and neighborhood associations since money was allocated to streetscape 11th and Yale. At the first meeting the public indicated a desire for landscaping that would transition from the architecture of the 1950's-70's era to the south side architecture of the 1920's-30's era. The landscape architects provided some ideas at the second meeting, which received support from the property and business owners. Later they determined the area included in the plan was not in the right-of-way so the City backed away from that plan to wait for other alternatives to become available. A revised design for public intersection improvement was then presented.

Board discussion ensued.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the parking requirements, from 36 to 17 parking spaces, to permit a health club and smoothie bar in the existing building (Section 1219.D), per amended plan submitted today # AS101 and dated 12/28/06, with written agreement from the property to the west for additional parking spaces, 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:

PRT SE SE BEG 35N & 50W SECR SEC 4 TH W150 N115 E150 S115 POB
SEC 4 19 13 .4AC, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20413

Action Requested:

Variance of the minimum average lot width permitted in an RS-1 district from 100 ft. to 85 ft. to permit a lot split (Section 403), located: 6633 South Birmingham Avenue East.

Presentation:

Dane Butterfield, 446 East 113th Street, stated the only requirement he has not met is the average lot width due to the cul-de-sac causing less than 100 ft lot width. The applicant provided a lot-split exhibit (Exhibit E-1).

Mr. Stephens out at 1:50 p.m.

Mr. Butterfield stated he would demolish the existing house, and build a new driveway with the new house.

Mr. Stephens returned at approximately 1:54 p.m.

Interested Parties:

David Thompson, 2620 East 66th Court, stated he is adjacent to the subject property. The property slopes east to west and he noted they would have to make provision for proper drainage.

Barbara Walts, 2606 East 66th Place, stated she is the adjoining owner on the north and west of the subject property. She was opposed to making one lot into three smaller lots. She thought it would make her lot less enjoyable.

Applicant's Rebuttal:

Mr. Butterfield responded that his hardship is how the cul-de-sac encroached on tracts A and B.

Mr. Alberty reminded the Board that the over-all lot width is 100 ft. but when you take out portions you have to average the lot. The lot area exceeds the RS-1 requirements.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the minimum average lot width permitted in an RS-1 district from 100 ft. to 85 ft. to permit a lot-split (Section 403), in accordance with the agenda page 5.5; finding that the lot-split is in harmony with the infill development in the City of Tulsa, that the conditions and circumstances are peculiar to this land; finding the literal enforcement of the terms of the code would result in an unnecessary hardship, and that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district; finding the 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 NE SW BEG 185.23N & 30E SWC SW NW NE SW TH E76.7 TH ON A CRV156.59 TH E137.2 N TO NEC SW NW NE SW W TO A PT 30E OF NWC SW NW NE NE SW TH S POB SEC 5 18 13 1.12AC, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20414

Action Requested:

Special Exception to permit a community pool/center (Use Unit 5) in an RS-3 district (Section 401), located: West of South Guthrie Avenue and West 77th Place South.

Presentation:

Randy Branstetter, 802 West Main, Jenks, represented the Stonebrooke Development Group. They proposed to put in a community pool and clubhouse meeting center. It is in the middle of a 141 acre Master Plan Development. The applicant provided a site plan (Exhibit F-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit a community pool/center (Use Unit 5) in an RS-3 district (Section 401), per plan for Reserve C, 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:

A tract of land located in the SE/4 of Section 11, T-18-N, R-12-E of the Indian Meridian, Tulsa County, State of Oklahoma, according to the Official U.S. Government Survey thereof, being more particularly described as follows: Commencing at the South Quarter Corner of Sec 11; TH N 00°02'26" W along the W LN of the SE/4 of Sec 11 1085.15 feet to the "Point of Beginning"; TH continuing N 00°02'26" W along the W LN of the SE/4 of Sec 11 1250.23 feet to a point that is 310.00 ft S of and measured perpendicular to the N Ln of the SE/4 of Sec 11; TH S 89°42'41" E along a Ln that is parallel and 310.00 feet S of and measured perpendicular to the N Ln of the SE/4 of Sec 11 1422.97 feet; TH S 00°00'00" W 370.00 ft; TH S 89°42'41" E 130.64 ft; TH S 34°10'49" E 162.22 ft; TH S 01°57'09" W 21.62 ft; TH S 81°15'00" W 347.16 ft; TH S 48°21'12" W 578.68 ft; TH N 89°41'55" W 536.33 ft; TH N 64°11'15" W 52.78 ft; TH S 24°55'48" W 29.03 ft to a tangent curve to the left; TH along a tangent curve to the left with a central angle of 41°21'50", a radius of 270.00 ft and an arc length of 194.92 ft; TH S 63°04'15" W and not tangent to the previous curve a distance of 248.80 feet; TH N 55°47'29" W 42.97 ft to the "Point of Beginning". The non-astronomic bearings for said tract are based on an assumed bearing of S 89°42'41" E along the north line of the SE/4 of Section 11, T-18-N, R-12-E of the Indian Meridian, Tulsa County, State of Oklahoma, according to the Official U.S. Government Survey thereof.

Case No. 20415

Action Requested:

Minor Variance of the rear yard requirement from 25 ft. to 21 ft. - 3 in. to permit an addition to the existing dwelling (Section 403), located: 4230 East 85th Street South.

Presentation:

Jonathan and Beverly Rissler, 4230 East 85th Street, proposed to repair and make an addition to their house at the breakfast nook. It is 10 ft. wide and currently sits on the setback line of 25 ft. They planned to add two feet and nine inches. The existing structure is glassed-in and has a bad leak. The applicant provided a site plan (Exhibit G-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Minor Variance of the rear yard requirement from 25 ft. to 21 ft. - 3 in. to permit an addition to the existing dwelling (Section 403), per site plan, finding the area involved needs to be rebuilt; and finding the exceptional conditions are peculiar to this land and building involved; finding the literal enforcement of the terms of the code would result in an unnecessary hardship; that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district; 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:

LT 7 BLK 13, BROOKWOOD, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20416

Action Requested:

Special Exception to permit public school use in an IL district (Section 901); and a Modification of a previously approved site plan related to public school use on the property, located: 5656 South 129th Avenue East.

Mr. White abstained from Case No. 20416.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, stated that about ten years ago the Board approved this location for alternative education for high school students in one building and the other two buildings for the administrative offices. The school needs to move the children to different buildings for space and growth. He

mentioned a fence that needs repair. He also noted that this has operated adequately and appropriately as an educational institution, though it is in an unusual location. The applicant provided a site plan (Exhibit H-1).

Comments and Questions:

Ms. Stead mentioned a letter of opposition from Heartland Realty Company (Exhibit H-2). Mr. Norman indicated that the school has not heard from the interested party regarding any complaint. She pointed out that if this involves after school activity the school is not responsible but if it is regarding the hole in the fence, they expect the school to repair it. She also suggested if the students are bothering the business during lunchtime, then they need a monitor. Mr. Norman stated he would contact the school so they can communicate with the real estate company.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 4-0-1 (Stephens, Henke, Stead, Tidwell "aye"; no "nays"; White "abstained"; no "absences") to **APPROVE** a Special Exception to permit public school use in an IL district (Section 901); and a Modification of a previously approved site plan (per Exhibits from the agenda packet marked 8.7 and 8.8) related to public school use on the property, with the condition that the fences to the north, south and west of the three buildings involved be repaired or replaced as necessary to make them secure; 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:

BEG 401.47S NEC LT 2 TH W450 S699.52 E450 N699.52POB BLK 5, PRT LTS
2 3 & 9 BEG 181.47S NEC LT 2 TH S220 W450S249.52 W395 N470.09 E845
POB BLK 5, PRT LT 9 BEG 181.47S & 845W NEC LT 2 TH S470.09 E395 S450
W655.68 N920.25 E260.68 POB BLK 5, METRO PARK, City of Tulsa, Tulsa
County, State of Oklahoma

Case No. 20427

Action Requested:

Variance of the required structure setback from the centerline of abutting streets 1/2 of the right-of-way designated on the Major Street Plan. (Section 215), located: East of South Kenosha Avenue between 2nd Street and 3rd Street.

Presentation:

Tim Terrill, 6737 South 85th East Avenue, with the Tulsa Engineering and Planning Associates, stated they have a 60 ft. right-of-way as opposed to the Major

Street and Highway Plan requirement for 80 ft. right-of-way. In this case, the actual setbacks are the same as the right-of-way line, which is a zero setback. They proposed to build eight condominium units fronting on Kenosha Street and a small amount of commercial development fronting on 3rd Street. There will be sidewalks on Kenosha, 2nd and 3rd Streets. They plan to demolish all of the existing buildings on the property. They will not move the PSO substation. The applicant provided a conceptual plan (Exhibit I-1).

Comments and Questions:

Mr. Alberty informed the Board that this case came before the Board a couple of months ago. He stated they have initiated an amendment to the Major Street and Highway Plan to accommodate the proposed development, or staff would not be able to recommend approval. He stated the Planning Commission will be hearing an amendment to the Major Street and Highway Plan. Mr. Alberty also noted a concrete patio or something that extends into the right-of-way. He sought clarification of that with the applicant. Mr. Terrill stated that was not their intent.

Mr. Cuthbertson noted since the property is in the CBD, there is a lot of flexibility in the development process. This development will not necessarily require replatting. He suggested that if the Board wanted a guarantee of sidewalks on the perimeter of this site, they might want to add it to the motion.

Mr. Tidwell asked if there is a cell tower on the property. Mr. Alberty replied there is a tower located there but is supposed to be relocated or removed from the property.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the required structure setback from the centerline of abutting streets 1/2 of the right-of-way designated on the Major Street Plan (Section 215), subject to there being no development in the right-of-way; that sidewalks be repaired or replaced around the entire perimeter; that the modification of the MSHP to a 60 ft. right-of-way be accomplished, per the conceptual plan, finding that the plan is in accordance with the infill development of the City of Tulsa; finding the literal enforcement of the terms of the code would result in an unnecessary hardship, and that such extraordinary exceptional conditions or circumstances do not apply generally to other properties in the same use district; finding the 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:

TRACT A: Lots Eight (8), Nine (9), Ten (10), and Eleven (11), Block Five (5), Hodge Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof. TRACT B: Lot Twelve (12) and part of Lot Thirteen (13), Block Five (5), Hodge Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof, being more particularly described as follows: Beginning at the southwest corner of said Lot 12, said point being on the east right of way line of Kenosha Avenue; Thence N 00°03'00"E along said right of way line and the west line of Lots 12 and 13, a distance of 77.85 feet to a point, said point being 22.15 feet south of the northwest corner of Lot 13; Thence N 76°39'46" E a distance of 77.09 feet to a point on the south right of way line of Second Street; Thence S 89°57'00" E along said right of way line a distance of 65.00 feet to a point 4.30 feet south of the northeast corner of Lot 13; Thence S 00°03'00" W along the east line of Lots 13 and 12, a distance of 95.70 feet to the southeast corner of Lot 12; Thence N 89°57'00" W along the south line of Lot 12, a distance of 140.00 feet to the Point of Beginning. AND The West Half (W/2) of the alley lying adjacent to the east boundary line of said Lot 13, Block 5, Hodge Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

OTHER BUSINESS

Ms. Stead asked for a meeting of the Board of Adjustment, INCOG staff and Dewayne Smith with Code Enforcement, regarding sidewalks, concrete and asphalt surfaces. Mr. Alberty indicated he would follow-up on the request.

There being no further business, the meeting adjourned at 2:40 p.m.

Date approved: 2/13/07


Chair

