

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 969
Tuesday, November 27, 2007, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Henke, Chair
Stead, Vice Chair
Stephens
Tidwell, Secretary
White

**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 Wednesday, November 21, 2007, at 11:14 a.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. 20604

Action Requested:

Special Exception to permit a Transitional Living Center, Homeless Center, Emergency and Protective Shelter and a Residential Treatment Center (Use Unit 2) in a CBD district (Section 701); and a Special Exception to permit such uses within a 1/2 mile of similar uses (Section 1202.C.7), located: 506 North Cheyenne Avenue, 505 North Denver Avenue West.

Presentation:

The applicant was not present, but made a timely request for the continuance.

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 **CONTINUE** Case No. 20604 to the meeting on December 11, 2007, on the following described property:

The South Ten (10) feet of Lot 3, all of Lot 4 and all of Lot 5, Block 3, Original Town, now City of Tulsa, Tulsa County, State of Oklahoma, according to the official plat thereof, and the dedicated alley lying between the South ten (10) feet of Lot 3 and all of Lot 4 on the East and the South Ten (10) feet of Lot 6 and all of Lot 5 on the West, all in Block 3, Original Town, now City of Tulsa, Tulsa County, State of Oklahoma, according to the official plat thereof.

MINUTES

There were no minutes provided for approval.

UNFINISHED BUSINESS

Case No. 20597

Action Requested:

Special Exception to permit a mobile home in an RS-3 district (Section 401); and a Special Exception to permit the mobile home permanently (Section 404.E.1), located: 2415 North Canton Avenue East.

Presentation:

The applicant was not present, as this case was continued for Councilor Turner to review the subject property. The Board did not receive further objection from Councilor Turner. The site plan was Exhibit A-1.

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 Special Exception to permit a mobile home in an RS-3 district (Section 401); and a Special Exception to permit the mobile home for a period of twenty-five years (Section 404.E.1), with conditions that the home be skirted, tied down, and all driving and parking spaces be asphalt or concrete, with a minimum of two parking spaces, per plan as shown on page 1.7 of the agenda packet, 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,

And,

On **Motion of Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a Special Exception to permit the mobile home permanently, finding that to permit the special exception permanently would not be in harmony with the spirit and intent of the code and would be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

S 1/2 W 1/2 LT 1 BLK 4, S R LEWIS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 20385-B

Action Requested:

Modification of conditions of a previous approval for an accessory parking lot to extend the time of execution for 6 months; and an amendment to the original legal description utilized in BOA-20385/ 20385-A to correctly describe the subject property, located: 2530 West Newton Street.

Presentation:

The applicant was not present. Site plan was Exhibit B-1.

Comments and Questions:

Ms. Stead stated the Board was familiar with this case and she would be in favor of taking action at this hearing.

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 **MODIFY** conditions of a previous approval for an accessory parking lot to extend the time of execution for 6 months from today's date, November 27, 2007; and an amendment to the original legal description utilized in BOA-20385-A and 20385-B as shown below, to correctly describe the subject property, per plan as shown on page 3.4 of the agenda packet, and that all conditions of the previous approval remain constant, on the following described property:

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

Case No. 20605

Action Requested:

Special Exception to permit church use in an IL district (Section 901); and a Variance of the industrial center's parking requirement to permit the church use within (Section 1205), located: 11626 East 51st Street.

Ms. Stead stated for the record, that the two spaces the applicant has on 51st Street are designated 11636 and 11638.

Presentation:

Oberhiri Agadagba, 909 South Aster Avenue, Broken Arrow, Oklahoma, represented the applicant.

Comments and Questions:

In response to questions from the Board, Mr. Agadagba replied that they have not had any problems with parking; and that the business in front of the subject property does not have business at night or on weekends. They were not planning to stay more than more three years at this location.

Interested Parties:

Randy Engleby, 3906 East 108 Street, Sapulpa, Oklahoma, stated he is the Controller for LaBarge, the facility in front. They run two shifts, the second shift being a light shift. They run a full shift on Saturdays but not on Sundays. He was concerned with parking and any constraints for his shipping trucks. He has not had any parking problems to date.

Mr. Agadagba responded to more questions, stating the church meets on Sundays 9:00 to 11:30 a.m., and Tuesdays, 7:00 to 8:30 p.m. They have forty adult members who park in the front only. They planned to renew their lease in February. The other businesses are not open when they are at the church. The property owner is willing for them to use the site as long as they want it.

Board Action:

On **Motion of White**, the Board voted 4-1-0 (White, Henke, Stead, Tidwell "aye"; Stephens "nay"; no "abstentions"; no "absences") to **APPROVE** the Special Exception to permit church use in an IL district (Section 901); and a Variance of the industrial center's parking requirement to permit the church use within (Section 1205); limited to the current space, designated 11636 and 11638 of the industrial center; parking limited to areas designated for 11636 and 11638 East 51st Street; and time limitation for this approval be for two years from this date, November 27, 2007; 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; and for the variance, finding 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 65W NEC TH W375 S381.90 E375 N381.90 POB & LESS BEG 375E & 381.90S & 375W & 345.46S NWC LT 1 TH E95 NE55 SE115 SE70 SE80 E86 S80 W440 N213.85 POB BLK 1, HATHAWAY CENTER, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20606

Action Requested:

Special Exception to permit accessory structures to an existing school athletic facility in an RS district (Use Unit 5) (Section 401), located: 2906 East 41st Street.

Presentation:

Bob LaBass, 3027 South New Haven, stated the facility is for restrooms and concessions. They are improving the cinder track with an all-weather track. He added that they were open to changes in the exterior lighting. The plan was Exhibit C-1.

Interested Parties:

Mike Cook, 4311 South Florence Avenue, stated he lives just east of the baseball field. He added that he would like to see a Master Facilities Plan. He indicated they had built various items without permits. He informed the Board the applicant needs to redirect the ball fields, as he collects 35 – 50 baseballs per year in his yard and this year one went through his front window.

Dorothy Ellen Burgess, 4247 South Columbia Place, stated she likes the improvements. She expressed concern about light pollution and security for the new school facilities. She considered the new traffic lights to be helpful but the street lights are a problem for the neighbors.

Applicant's Rebuttal:

Mr. LaBass assured the Board they would secure the facilities whenever they are not in use.

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 Special Exception to permit accessory structures to an existing school athletic facility in an RS district (Use Unit 5) (Section 401), per plan as shown on page 5.5 in the agenda packet, with condition for no ambient light spill-over onto adjoining lots, any lighting on the two buildings approved be properly shielded, 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 NE SEC 29-19-13, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20028-A

Action Requested:

Amend the previously approved site plan (BOA-20028) to permit a building expansion, located: NE/c of N Mingo Rd and E Admiral Pl

Presentation:

Gale Plummer, 2105 North Yellowwood, Broken Arrow, Oklahoma, stated he is the contractor for the applicant. He informed the Board of the addition to an existing building in CG zoning that allows for industrial type use. The site plan was Exhibit D-1.

Comments and Questions:

Ms. Stead asked if they intend to access the northernmost gate. Mr. Plummer replied that the access would not change from the existing. She reminded him of the conditions they have previously made. He mentioned they have some outside storage but it is temporary.

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** an Amendment to the previously approved site plan (BOA-20028) to permit a building expansion, per plan as shown on page 6.6 of the agenda packet; all parking and driving surfaces to be concrete or asphalt; and no outside storage per the original 1996 approval, on the following described property:

PRT LT 1 BEG NWC TH S400 NELY200 N400 SWLY200 POBBLK 1, VAN ESTATES NO 2 AMD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20608

Action Requested:

Variance of the setback requirement for a commercial parking lot within 50 ft. of an R district from 50 ft. to 33 ft. from the centerline of an abutting street (Section 1302.B), located: 4401 South Peoria Avenue.

Presentation:

John Duvall, 1820 South Boulder Avenue, #301, discovered they needed a parking variance, which they overlooked when they were before the Board previously. The site plan was Exhibit E-1. They increased the amount of landscaping and screening. The parking and sidewalks are concrete.

Interested Parties:

Sam Morales, 1410 East 43rd Court, stated he and his wife own the property. They are also Brookside residents. They also own the property at 4503 South Peoria. He stated they have spent a lot of time and effort to inform the neighborhood of their plans besides the notices from the INCOG office.

Herb Beattie, 3474 South Zunis Avenue, stated the Brookside Neighborhood Association is in full support of this application.

Janine Morales, 1410 East 43rd Court, President of the Brookside Business Association, stated she has talked with all of the members of the association and they unanimously support the application.

Kevin Knowlin, with Cambry Realty, stated they support the application. He had one concern on East 44th Place South. He indicated it looked like the drive and parking area might eliminate a little public parking. The overflow to the north may be displaced and they do not want to be bad neighbors.

Comments and Questions:

Mr. Alberty mentioned the code does not permit the proposed on-street parking by right and it requires a license agreement. Mr. Cuthbertson followed up, adding that they have all of the required parking in the lot behind, and these are additional spaces. Mr. Duvall interjected that they applied for a building permit and zoning and were approved. He added that no one raised this issue to date. Mr. Alberty replied that they missed it.

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 Variance of the setback requirement for a commercial parking lot within 50 ft. of an R district from 50 ft. to 33 ft. from the centerline of an abutting street (Section 1302.B), per plan as shown on page 7.6 of the agenda packet, with the exception of the two spaces indicated as 12 and 13, which will require further action on the part of the applicant for a license agreement with the City of Tulsa; and for clarification, the parking lot will be concrete only, to eliminate confusion; any lighting will comply with the Kennebunkport formula; landscaping per requirements by the zoning code, finding 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 14 BLK 5, WILDER ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20613

Action Requested:

Special Exception to permit an outdoor event utilizing a tent (Use Unit 2) in a CH district (Section 701); and a Variance to permit a tent to occupy required parking (Section 1202.C.2), located: 3504 South Peoria Avenue.

Presentation:

Joey Ferguson, 7170 South Braden, Suite 170, represented the Arthritis Foundation. The tent would be set up at the Southminster Presbyterian Church on December 7, 2007 until Saturday December 8, 2007. The event is the Jingle Bell Run/Walk, beginning Saturday at 7:00 a.m. and ending the same day.

Comments and Questions:

In response to questions from the Board she stated they have on-going permission from the church. She asked for ten years to avoid paying yearly request fees.

Interested Parties:

Herb Beattie, 3474 South Zunis Avenue, stated the ten years was a long time and the neighborhood would be supportive of three-years. He stated this parking lot is subject to change all of the time.

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 Special Exception to permit an outdoor event utilizing a tent (Use Unit 2) in a CH district (Section 701) 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; and a Variance to permit a tent to occupy required parking (Section 1202.C.2); this approval is extended for a period of five years from this date November 27, 2007, such event being held on the second Saturday in December, covering the approximate time of 2:00 p.m. on the Friday before until 12:00 noon on the second Saturday of December; finding 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 5 & N/2 LT 6 LESS BEG SECR THEREOF TH W100 N40E81.28 N110 E18.72 S150 POB BLK 2, PEORIA GARDENS ADDN AMD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20617

Action Requested:

Verification of spacing requirements for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, other liquor stores, and bail bonds offices (Section 1214.C.3), located: 5820 South Peoria Avenue.

Presentation:

Shellie Wilson, 5338 East 26th Street, provided a verification of spacing.

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 **ACCEPT** a Verification of spacing requirements for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, other liquor stores, and bail bonds offices (Section 1214.C.3), on the following described property:

LTS 5 6 7 & 8 BLK 1, BROADVIEW HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

Request to Approve the 2008 City Of Tulsa Board Of Adjustment Meeting Schedule.

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** the 2008 City Of Tulsa Board Of Adjustment Meeting Schedule.

There being no further business, the meeting adjourned at 2:20 p.m.

Date approved: 1-3-08

Frank X. Hill IV
Chair