

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 975
Tuesday, March 11, 2008, 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 Thursday, March 6, 2008, at 1:57 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 1:01 p.m.

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

MINUTES

On **MOTION** of **Tidwell**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of February 12, 2008 (No. 973).

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20648

Action Requested:

Special Exception to permit required parking on a lot other than the lot containing the principal use (Section 1301.D) to permit three parcels to share parking, located: Southwest corner of South Harvard Avenue and East 21st Street.

Presentation:

Mr. Cuthbertson informed the Board that the legal description did not include all of the properties involved in the request. Staff asked for a continuance to the meeting on March 25, 2008 for new notice.

Comments and Questions:

Ms. Stead asked if the applicant has looked into a lot combination. Mr. Bill LaFortune replied it has been considered and decided it would not work. He stated the new notice will ensure that the Board action will be recorded on all the property involved. Mr. White asked the parking spaces be defined on the plans when they present the case. Mr. Stephens asked that they would clearly define the location of the alley, ingress and egress.

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 **CONTINUE** Case No. 20648 to the meeting on 03-25-08, on the following described property:

LTS 4 & 5 & PRT VAC ST BEG 50S & 50W NEC SEC 17 19 13 TH S108.9 TH ON CRV LF 157.6 TH E108.9 POB LESS W45 LT 4 & LESS S40 LT 5 BLK 3; LT 3 and the West 45 FT LT 4 BLK 3; LT 2 BLK 3, BONNIE BRAE, City of Tulsa, Tulsa County, State of Oklahoma

UNFINISHED BUSINESS

Case No. 20635

Action Requested:

Variance of the parking requirement to permit office uses in existing structures in the CS district (Section 1211.D), located: Northwest and Southwest corners of East 7th Street and South Lewis Avenue.

Mr. White abstained from Case No. 20635.

Presentation:

Phillip Doyle, 2616 East 14th Street, stated they met with the Kendall-Whittier Task Force to convey the appearance of the proposed structure, all improvements, and answer their questions. He understood their concern was for a plan to show that parking would be available for the building. The plans provided are (Exhibit A-1).

Comments and Questions:

Ms. Stead asked if the tie agreement in Case No. 17342 was provided (Exhibit A-3). He replied he had a copy. Mr. Doyle replied to questions, stating they removed Lot 2 from the request.

Interested Parties:

City Councilor Maria Barnes, Kendall-Whittier President, stated they could not support this application at this time. She informed the Board that though the applicant met with the Task Force they have not met with the neighborhood association. She explained for the Chair, that the Task Force is made of business leaders, neighborhood association, Tulsa University, and other entities that come together to hear what is going on and keep updates. Mr. Tidwell noted the Task Force was in support. She admitted that the neighborhood was represented but the applicant still did not show what was going into the offices. A letter was provided, signed by Councilor Barnes (Exhibit A-1).

Mr. Tidwell asked how many people are on the Task Force. **Dane Matthews**, 201 West 5th Street, Suite 600, Tulsa, Oklahoma 74103, replied there are about 23 people, with a fluid membership. They represent institutions, churches, businesses, neighborhood associations, library, schools, and others. They received a briefing on the application one week previously. The plans were well received. She stated they felt it was a good re-use of the property and would revitalize the area.

Bill Kirk, 3166 East 1st Street, represented the Kendall-Whittier Neighborhood Homeowner and Tenants' Association. He stated they did not want to support two businesses sharing allotment for parking. He asked for it to be continued until the applicant can provide detailed plans of the location and proof of legal use.

Mr. Ackermann found the copy of the tie agreement was not executed or recorded with the County Clerk or signed by the Mayor. He reminded the Board if the variance granted in 1996 was on condition of the tie agreement, it would be void after three years if the tie agreement was not recorded. Mr. Doyle understood the tie agreement to be legal but he was not sure if it was recorded.

Applicant's Rebuttal:

Mr. Doyle responded that the drawing was conceptual because they did not want to go through a full presentation on something that may change. He added that they informed the Task Force they would meet with the neighborhood association. He stated the hardship is the size of the building compared to the size of the lot. He added that the layout of the lot is so close to Lewis Avenue and the corner.

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 Variance of the parking requirement to permit office uses in existing structures in the CS district

(Section 1211.D), subject to office use only; a tie agreement covering Lots 30, 29, Block 5 and Lot 1, Block 6, Hillcrest Addition be executed and recorded in the records of Tulsa County and a copy of such recorded instrument be furnished to INCOG offices; subject also to site plan, dated 01-02-07 referring only to the conceptual plan proposed and may be modified; the variance is not applicable to Lot 2, Block 6; by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, specifically that the property was platted prior to requirements for parking, and historically such properties were allowed to exist without any parking, 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:

LOT 30 & 29 BLK 5, LOT 1 & 2 BLK 6, HILLCREST ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20640

Action Requested:

Variance of the maximum permitted display surface area for a school bulletin board in an AG district from 32 sq. ft. to 53.9 sq. ft. (Section 302.B.2.a); and a Variance of the requirement that illumination of a sign in an AG district shall be by constant light (Section 302.B.2.a) to permit an LED message board, located: 3933 East 91st Street.

Presentation:

Ben Ferem, 205 East B Street, Jenks, Oklahoma, 74037, with Jenks Public Schools, stated he visited the residential neighbor's property. He could see how visible the sign would be from their home. They revised the plan to lower the sign about nine feet and designed a one-sided sign that faces the road (Exhibit B-1).

Comments and Questions:

Ms. Stead expressed concern for the sign to be four feet from the ground. Mr. White questioned if it would be a security problem. The Board and Mr. Ferem discussed a two-sided sign and different locations. Mr. Ferem stated they wanted to be good neighbors, and protect the residential properties from sign lights.

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 maximum permitted display surface area for a school bulletin board in an AG district from 32 sq. ft. to 53.9 sq. ft. (Section 302.B.2.a); and a Variance of the requirement that illumination of a sign in an AG district shall be by constant light (Section 302.B.2.a) to permit an LED message board, with no flashing, blinking, or vertical scrolling; a maximum height of 20 ft., single-faced sign facing to the south, at the location shown on the site plan submitted today, finding the size of the surface area, and lighting is necessary for presentation of information to parents and general public; 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:

S/2 SE SW LESS W660 THEREOF & LESS S50 THEREOF FOR RD SEC 16 18 13 9.24ACS; W528 E1056 N/2 S/2 SW SEC 16 18 13 8ACS; E528 N/2 S/2 SW SEC 16 18 13 8AC, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20641

Action Requested:

Variance of the maximum permitted display surface area for a school bulletin board in an AG district from 32 sq. ft. to 53.9 sq. ft. (Section 302.B.2.a); and a Variance of the requirement that illumination of a sign in an AG district shall be by constant light (Section 302.B.2.a) to permit an LED message board, located: 8925 South Harvard Avenue.

Presentation:

Ben Ferem, stated they moved this sign, at the request of the Board, from Harvard Avenue to 91st Street near the bus oval entrance to the school. He added that regarding this two-sided sign the height remains the same and would be located about 62 ft. from the centerline of 91st Street. There are businesses across the street. They plan to leave the existing, fixed-letter sign on Harvard. The plan is (Exhibit C-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, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Variance of the maximum permitted display surface area for a school bulletin board in an AG district from 32 sq. ft. to 53.9 sq. ft. (Section 302.B.2.a); and a Variance of the requirement that illumination of a sign in an AG district shall be by constant light (Section 302.B.2.a) to permit an LED message board, per plan submitted, showing a double-faced sign facing east and west, located on 91st Street, finding the increase in size and constant light should be to inform parents and public as to emergencies or activities there; and the sign shall not have blinking, flashing or vertical scrolling in the display; 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:

W792 N/2 S/2 SW LESS W50 THEREOF SEC 16 18 13; E660 W1320 S/2 S/2 SW LESS S50 THEREOF SEC 16 18 13; E/2 E/2 SW SW SW LESS S50 THEREOF FOR RD SEC 16 18 13; W/2 E/2 SW SW SW LESS S50 THEREOF SEC 16 18 13; N132 W/2 SW SW SW LESS W50 SEC 16 18 13; S528 W/2 SW SW SW LESS W50 & S50 SEC 16 18 13, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

Case No. 20644

Action Requested:

Variance of the side yard requirement from 5 ft. to 3.37 ft. (Section 403), located: 2613 East Admiral Court North.

Presentation:

Gary McNeil, P.O. Box 948, Tahlequah, Oklahoma, 74464, proposed to replace a home with a new home. The plans are (Exhibit D-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 Variance of the side yard requirement from 5 ft. to 3.37 ft. (Section 403), finding the

approval is in accordance with the plot plan and floor plan as shown on pages 5.6, and 5.7 of the agenda packet; finding the variance is necessary because of the 45 ft. lot width, and the code minimum is 60 ft.; and it contains only 5,625 sq. ft. of lot area, while the present code requires a minimum of 6,900 sq. ft., finding the lot was plotted before the current zoning and creates 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 BLK 1, FAIRMONT ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20646

Action Requested:

Variance of the maximum coverage for a parking area of the required front yard in an RS-2 district from 32% (Section 1303.D) and a Variance to permit two separate unconnected parking areas in the front yard in a residential district (Section 1301.C), located: 6992 South Oswego Avenue East.

Presentation:

Faridah Abdulla, 6992 South Oswego Avenue, stated her request. The contractor did not obtain permits to construct the driveways. The plans are (Exhibit E-1).

Comments and Questions:

In response to questions from the Board, Ms. Abdulla replied that her son and husband park their work trucks at home but do not conduct a business out of the house.

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 maximum coverage for a parking area of the required front yard in an RS-2 district from 32% (Section 1303.D) and a Variance to permit two separate unconnected parking areas in the front yard in a residential district (Section 1301.C), in accordance with the as-built plans submitted as shown on page 6.6 of the agenda packet; finding the location of the property on the corner of a busy intersection with traffic lights; finding the parking areas were not provided and excess parking would have to be in the street, which would create a significant traffic hazard in an already dangerous intersection, 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 34 LESS BEG SECR TH W16.50 NE23.33 S16.50 POB FOR ST BLK 3 ,
WINDSOR PARK SOUTH, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20642

Action Requested:

Special Exception to permit two single family dwellings (Use Unit 6) on a lot in the CBD district (Section 701), located: 820 East 3rd Street South.

Presentation:

Brian Freese, 1634 South Boston, Tulsa, Oklahoma, 74119, represented his client. He proposed a two-unit condominium dwelling on a single lot in a CBD-zoned district. He provided a site plan (Exhibit F-1). He added that it would be in harmony and in the spirit and intent of the code and the comprehensive plan. He indicated this would be downtown revitalization by the improvement of an abandoned building. The plans include off-street parking, although parking is not required in a CBD district.

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 two single family dwellings (Use Unit 6) on a lot in the CBD district (Section 701), finding the special exception will be in the harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, per plan, as shown on pages 7.6, 7.7 and 7.8 in the agenda packet,

Question on the motion by Mr. White.

Mr. White asked the applicant if he was in agreement to an approval per the plans submitted. Mr. Freese replied that he did not have a problem with per plan submitted. He added that the applicant considers this a single, two unit condominium development. He stated the distinction is that these are not two separate residences. Mr. Alberty referred to it as single-family attached dwellings on a single lot. He added that the definition of a townhouse would be three units.

On **Amended 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 two single, attached family dwellings (Use Unit 6) on a lot in the CBD district (Section 701), per plan, as shown on pages 7.6, 7.7 and 7.8 in the agenda packet, finding the special exception will be in the 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:

E46 LT 1 BLK 12, HODGE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20647

Action Requested:

Special Exception to permit required parking on a lot not containing the principal use (Section 1301.D); Variance of the design standards for required parking to permit linear or stacked parking spaces (Section 1301.F & 1303); and a Variance of the loading berth requirement (Section 1211.D), located: Southeast and Southwest corners of East Admiral Place and North Sandusky Avenue.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, represented the applicant/owners of the subject property. He proposed the church was to become a funeral home chapel in the CG district. This is an existing church building no longer in use. He reviewed the property with the use of photographs (Exhibit G-2). He suggested a tie agreement for all three parcels. He informed the Board of the proposed uses for the buildings. The applicant has no objection to repair and maintenance of the sidewalks. Mr. Norman stated that the calculations for parking was based on square footage including the basement space. He pointed out the plan for linear or stacked parking.

Interested Parties:

Gwen Chancey, 4179 East Admiral Boulevard, Tulsa, Oklahoma 74115, was concerned about being surrounded by the applicant's proposed uses. She asked about the parking. She was not opposed to the application.

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 required parking on a lot not containing the principal use (Section 1301.D); Variance of the design standards for required parking to permit linear or stacked parking spaces (Section 1301.F & 1303); and a Variance of the loading berth requirement (Section 1211.D), subject to the narrative submitted as exhibit A, pages 8.7 and 8.8 of the agenda packet, and the site plan exhibit B, page 8.9; and subject to the repair, reconstruction or new construction of sidewalks as shown on the site plan; asphalt or concrete parking surface on the northern

tract; tie agreement for the entire advertised property shall be executed; finding the 50 ft. width of the lots from the early platting of this property; finding there is plenty of room for unloading without a loading berth; finding the configuration of the properties creates a hardship that 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; and if granted that 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:

All of lots 18, 19 and 20 less and except the northerly 29.25' thereof and the northerly 100.00' of lots 35, 36 and 37 all in the "re-subdivision of lots 1, 2, 3, 4, 5, 16, 17, 18, 19 & 20, block 1; and lot 1, block 2 of Rodger's Heights Subdivision", City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof; All of lot 21, less and except the northerly 29.25' thereof in the "re-subdivision of lots 1, 2, 3, 4, 5, 16, 17, 18, 19 & 20, block 1; and lot 1, block 2 of Rodger's Heights Subdivision" City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof; All of lots 124 and 125 of the "re-subdivision of lots 2, 3, 4, 5, 6, 7, 8, 9, 10, block 2 Rodger's Heights Subdivision", City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof.

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Case No. 20649

Action Requested:

Special Exception to permit (Use Unit 8) Multi-Family Residential in the OM district (Section 601), located: 1408 South Cheyenne Avenue West.

Presentation:

Kevin Stephens, 1506 East 14th Street, proposed to build RM-2 housing in OM zoning. The plans are for twenty townhouse units, three-story structures. He provided a site plan (Exhibit H-1).

Comments and Questions:

In response to Ms. Stead, he stated they would rebuild and maintain the sidewalks.

Interested Parties:

Larry Johnson, 1707 South Erie Avenue, Tulsa, Oklahoma, stated he is one of the owners of the building to the north of the project. He thought they were going to be apartments. His only concern was overflow parking. He added that already some of the other neighbors overflow onto his parking lot.

Mr. Kevin Stephens responded that the plans were never intended for rental units, but to be townhomes for sale. They planned for two parking spaces on site for each unit.

Ron Miller, 1406 South Carson, Tulsa, Oklahoma, stated he is President of the Riverview Neighborhood Association. He expressed their support of the application, recognizing the under utilized parking lot. They want the applicant to present details of the plans with the association. Mr. Miller stated their only concern is screening in the alley for the residences facing Carson. They want to know what the presentation to Cheyenne will be.

Applicant's Rebuttal:

Mr. Kevin Stephens stated he would gladly meet with the neighborhood association. The plans included landscape screening along the alley and trees on the ends of the structures between the alley and the townhomes.

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 Special Exception to permit (Use Unit 8) Multi-Family Residential in the OM district (Section 601), per site plan A-2 and conceptual plans A-3, A-4 and A-5; sidewalks constructed and maintained to City standards; subject to a plat; to provide landscape screening on the west side of the property, finding 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:

N30 LT 17 & ALL LTS 18 THRU 21 BLK 2, CARLTON PLACE, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 2:42 p.m.

Date approved: 9/8/08


Chair

