

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 978
Tuesday, April 22, 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
Cuthbertson
Huntsinger

**OTHERS
PRESENT**
Ackermann, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Thursday, April 17, 2008, at 4:14 p.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

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

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

MINUTES

On **MOTION** of Tidwell, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of March 25, 2008 (No. 976).

NEW APPLICATIONS

Case No. 20665

Action Requested:

Special Exception to permit a university facility and accessory uses (Use Unit 5) in an RM-2 district (Section 401); a Variance of the maximum building height in an RM-2 district from 35 ft. to 86 ft. (Section 403); and a Special Exception to permit required parking on a lot other than the one containing the principal use (Section

1301.D), located: West side of South Gary Place between East 5th Place and East 8th Street.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, represented the University of Tulsa, regarding the new Performing Arts Center for the Music Department. He pointed out that within the area all of the public streets have been closed or vacated in the past year. They gave extra notice to as many people as possible rather than define the actual location of the building conservatively. He reviewed some details of the plans (Exhibit A-1), including the circular drive to face Harvard Avenue, new parking, arches, roof heights, and other items. There is narrative in the agenda packet (Exhibit A-2), an artist rendering (Exhibit A-3), and photographs (Exhibit A-4), provided by Mr. Norman. Mr. Norman introduced Bob Shipley, the Vice-President for Construction and Maintenance. He attends the meetings of the Turner Park Association, Renaissance, and Kendall-Whittier Neighborhood Association meetings on a regular basis.

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 Special Exception to permit a university facility and accessory uses (Use Unit 5) in an RM-2 district (Section 401); a Variance of the maximum building height in an RM-2 district from 35 ft. to 86 ft. (Section 403); and a Special Exception to permit required parking on a lot other than the one containing the principal use (Section 1301.D), finding this is part of the Master Plan, previously approved by the City Council of Tulsa, Oklahoma; subject to the narrative on pages 2.8, 2.9, and 2.10 and Exhibits C, D1, D2, and E of the agenda packet; 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; and in granting the special exceptions finding they will be in harmony with the spirit and intent of the code, in accordance with plans previously approved by the Tulsa City Council, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

A tract of land lying east of the centerline of South Delaware Avenue, north of the centerline of East 8th Street South, west of the centerline of South Harvard Avenue, and south of the centerline of East 4th Place South, the tract of land being a part of "College Addition", an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, and all of block 3 of "University

of Tulsa Blocks 1, 2 and 3", an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, including the vacated streets and alleyways therein, the tract of land being more particularly described as follows, to-wit: All of blocks 4 through 22, inclusive, of "College Addition" including the vacated streets and alleyways therein and adjacent thereto, and all of block 3 of "University of Tulsa Blocks 1, 2 and 3" including the vacated streets adjacent thereto.

Case No. 20666

Action Requested:

Special Exception to permit a mobile home (Use Unit 9) in an RM-2 District (Section 401), located: 1207 East 5th Street South.

The application was withdrawn after advertising and a refund was requested.

Presentation:

Mr. Cuthbertson informed the Board that staff recommended a refund of \$150.00. Notices were sent out on March 26, 2008 before the request to withdraw.

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 partial **Refund** of \$150.00, on an application for the following described property:

LT 8 BLK 1, CENTRAL PARK PLACE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20667

Action Requested:

A variance of the required side yard setback from 5' to 1.4' to reconstruct, extend, and cover an existing structure (Section 403), located: 232 East 28th Street South.

Presentation:

Bob Kirk, 232 East 28th Street, proposed to replace, expand their deck, attached to the house. They also want to enclose it as a screened porch with roof. Plans were provided (Exhibit B-1).

Comments and Questions:

Ms. Stead noted a letter of support in the agenda packet from the neighbors on the west. Mr. White asked staff about the lot with the garage only needing a tie agreement. Mr. Cuthbertson stated they could do a lot combination of the two lots.

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 5' to 1.4' to reconstruct, extend, and cover an existing structure (Section 403), per plan, and subject to a lot combination of the two lots, finding this is a reconstruction extension of an existing structure that has been there about 30 years; 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:

LTS 7-8 BLK 21, SUNSET TERRACE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20668

Action Requested:

A Variance of the side yard requirement from 5' to 0' (Section 403) to permit a structural addition, located: 3007 South Boston Place.

A partial refund was requested. Staff recommended a \$50.00 refund.

Presentation:

Joey Toler, 3007 South Boston Place, stated his request. They are adding a one-car garage, within the building lines and an attached carport that would encroach on the side yard requirement. He provided site plans (Exhibit C-1).

Comments and Questions:

Ms. Stead asked about the stone archway. Mr. Toler stated the north archway will be removed and the south one will remain. The carport will be in front of it. Mr. Tidwell asked if the west elevation was correct on the exhibit. Mr. Toler replied that it is correct.

Interested Parties:

There were no interested parties who wished to speak.

stated they have a total of 266 parking spaces granted for use in this event. They plan for eight security officers. They arranged for four port-a-johns to be delivered the day of and removed the next morning. They will provide people to pick up any trash in the neighborhood from this event and appropriate disposal. He informed the Board that this is meant to be a family event. They do not expect a bigger crowd because there are numerous other celebrations in town. Plans and a map were submitted (Exhibit D-1 and D-2).

Comments and Questions:

Mr. White asked how late the off-duty police officers would be there. Mr. Swanson replied they will be there until midnight.

Interested Parties:

Jeanine Morales, 1410 East 43rd Court, stated she is a business owner and resident in Brookside, and President of the Brookside Business Association. Their membership unanimously supports this event (Exhibit D-3). They are working closely to ensure that the littering and other issues are not a problem again. The Brookside Neighborhood Association Board (Exhibit D-3) is in support of this application.

Herb Beattie, 3474 South Zunis Avenue, stated he was not able to be at the neighborhood meeting. He added there was a split vote, which stated they supported this event. He stated the neighborhood is very large and so they have representatives of portions of the neighborhood. The representative for the affected neighborhood voted no. He was opposed to the noise, drinking, volume of parking on a week night. He added that he did not hear a hardship for the variances.

The Board discussed the time limitation, parking and setbacks.

Board Action:

On **Motion of White**, the Board voted 4-0-1 (White, Stephens, Stead, Tidwell "aye"; no "nays"; Henke "abstentions"; no "absences") to **APPROVE** a Special exception to allow an outdoor special event in the CH, OL and RS-3 zoning district (Section 701, 601 and 401); a Variance to permit the special event to occupy required parking (Section 1202.C.2); and a Variance of the setback for a tent from an RS zoning district (Section 1202.C.3.) for one year, this will be for the event to be held on May 5, 2008 and for 2009 the applicant will need to come before the Board again based upon the performance of this year; with conditions for approval, a maximum of two tents, one additional dumpster, lights in the tents out by 11:30 p.m., no less than four port-a-johns, no less than eight security on duty from a minimum of 3:00 p.m. to 12:00 p.m. on the day of the event, and clean-up immediately after the event; finding the hardships to be that the setback from the RS zoning district is actually the zoning district involved are parking lots in their own right; per plan as shown on page 6.7 of the agenda packet, and labeled AO, dated March 11, 2008; and 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, as to the variances, 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 4, LT 5, AND N 18.75' LT 12, BLK 1, OLIVERS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Henke returned at 2:00 p.m.

Case No. 20670

Action Requested:

Special Exception to permit a church and related uses (Use Unit 5) in an OL District (Section 601); and a Variance of the required parking (Section 1205.C), located: 5043 South Fulton Avenue.

Presentation:

William B. Jones, 15 East 5th Street, Suite, 3800, Tulsa, Oklahoma, stated through a long-term relationship with the leadership of the applicant and the leadership of the Thornton YWCA. He stated the request and stated the office building is about 5,000 sq. ft., using 2,400 to 2,500 sq. ft. for fellowship hall/sanctuary. The rest would be used for class rooms and offices. This would be a joint venture between the YWCA and his client to help the neighborhood and the City to help youth and a lot of single-parent families. There are only 26 to 28 parking spaces on site. He informed the Board that the church has an agreement with the YWCA to use their parking. On Sundays and Wednesdays the Y is not open when the church needs it the most.

Comments and Questions:

Ms. Stead reminded the applicant that the parking lot across the street from the subject property is illegal, having a gravel surface. She added it should be paved with asphalt if they plan to use it. Mr. Jones replied that they have already discussed this and would be willing to surface the parking with asphalt. Ms. Stead stated it should be striped also. He suggested to the applicant that they shuttle people to and from the northwest parking lot.

Interested Parties:

Chip Atkins, 1638 East 17th Place, asked if there is a condition to the time the applicant has to asphalt the property.

Board discussion ensued.

Board Action:

On **Motion** of **Stephens**, 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 church and related uses (Use Unit 5) in an OL District (Section 601); and a Variance of the required parking (Section 1205.C), 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 finding for the variance the small size and irregular configuration of the lot; with condition for approval of the variance for one year, allowing one year from today, April 22, 2008, to pave and stripe the gravel parking lot across the street; 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:

N160 W107 S355 LT 14 BLK 2, ALLENS SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20671

Action Requested:

A Variance of the setback requirement for a parking area within 50' of an R District from the centerline of an abutting street (Section 1302.B), located: 1701 South Peoria Avenue East.

Presentation:

Roy Johnsen, 201 West 5th Street, Suite 501, Tulsa, Oklahoma, 74103, represented the owner of the subject property, Dr. Randall McCormick. The two lots of subject property are zoned OL, with a structure that was probably a home and then used for offices. The structure has been removed. The applicant is building a one-story office building for his dental practice and an eye care office. It will have approximately 4,000 sq. ft. He explained that the variance is for southwest corner of the property. The setback applies to this portion because the properties face the residential property. He pointed out the property was probably platted in the early 1920's for residential purposes. The site plan and photographs provided are (Exhibits E-1 and E-2).

Interested Parties:

Chip Atkins, 1638 East 17th Place, represented his client at 1716 South Quaker, Deletta Washburn. He expressed concern for what will happen with the RM-2 lot where dirt has been dumped for this project.

Applicant's Rebuttal:

Mr. Johnsen responded that the south lot has some temporary construction dirt and the dirt will be leveled or removed. He added that it's use is undetermined and is zoned multi-family in an HP District. He stated he was sure it will be under close scrutiny.

Board Action:

On **Motion of Stead**, the Board voted 5-0-0 (White, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a A Variance of the setback requirement for a parking area within 50' of an R District from the centerline of an abutting street (Section 1302.B), per plan as shown on page 8.6 in the agenda packet, finding this lot, platted in the 1920's, was for residential use and is now being restructured for office use which creates an unnecessary hardship; 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:

LTS 15 & 16 BLK 24 & 10' VAC ALLEY, ORCUTT ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20674

Action Requested:

Variance of the parking requirement from 5 spaces to 0 spaces to permit retail use in an existing commercial structure (Section 1213.D), located: 307 South Phoenix Avenue.

Presentation:

Scott Smith, 730 South Phoenix Avenue, which is about two blocks south of the subject property. He is developing the property for a grocery store/coffee house. He stated that he also represented the owner of the property, Dr. Miriam Mills. The hardship is that they would be unable to operate this business in a way that would benefit the neighborhood the most because there is basically no parking available. Mr. Smith stated this has historically been a gathering place. He proposed to operate a retail facility for pedestrian and bicycle traffic.

Interested Parties:

Miriam Mills, 710 South Phoenix, stated she has owned the property for four years and this is what she has wanted to do on this property.

Comments and Questions:

Ms. Stead asked if it would be possible to obtain an agreement to use the side lot. Ms. Mills replied that they have talked with the owner and they would try again.

Mr. Stephens out at 2:44 p.m.

Santiago Sabalo, 107 South Rosedale, stated he has lived in this neighborhood all of his life. He expected the numerous elderly and other neighbors without transportation would take advantage of this store.

Mr. Stephens returned at 2:47 p.m.

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 parking requirement from 5 spaces to 0 spaces to permit retail use in an existing commercial structure (Section 1213.D), finding this extremely small lot, platted in approximately 1908, containing 1,710 sq. ft., that there is little other commercial use for it; finding the proposed use would be beneficial to the neighborhood; finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to this tract, 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:

S25 OF E67 OF LT 1 BLK 5, CROSBIE HGTS, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 2:49 p.m.

Date approved: 5/13/08


Chair