

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1001
Tuesday, May 12, 2009, 1:00 p.m.
Tulsa City Council Chambers
One Technology Chamber
175 East 2nd Street

**MEMBERS
PRESENT**

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

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Alberty
Cuthbertson
Butler

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, May 6, 2009, at 11:15 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.

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 April 28, 2009 (No. 1000)

NEW APPLICATIONS

Case No. 20907

Action Requested:

Variance of the maximum floor area permitted for detached accessory buildings in the RS-1 district from 1,028 sq. ft. to 1,448 sq. ft. (Section 402.B.1.d); a **Variance** of the maximum permitted height of a detached accessory building located in the

25 ft. required rear yard from 18 ft. to 23 ft. (Section 210.B.5.a) to permit an additional building - garage/pool house, located: 5112 East 98th Street.

Presentation:

Richard Studenny, 5401 South Harvard, Tulsa, Oklahoma, 74135, attorney, represented the applicant, Brett Driscoll. He stated the applicant proposed to build a garage/pool house (Exhibit A-1). The lot is twice the minimum required size. Mr. Driscoll is active in a number of car societies and is a judge for local chapters. He would prefer to judge vehicles indoors. The plans for the garage include a pitched roof to match the architecture of the home. He pointed out that many of the surrounding homes are two-stories. Mr. Studenny mentioned there is a well house where they also store gardening tools located at the back of the lot. He submitted a petition of homeowners in the neighborhood in support of the height variance (Exhibit A-3). He added that they plan to plant rapidly growing, sound vegetation landscaping. He also pointed out the existing wood screening fence around the yard. Photographs were also submitted (Exhibit A-2).

Comments and Questions:

Mr. Stephens asked for the hardship for the variance of permitted height. Mr. Studenny replied the lot is twice the size of the usual RS-zoned lot. They want to match the home by using the same pitched roof. Mr. White asked if the neighbor on the west was in support. He replied they are not in support.

Interested Parties:

Curtis Lawson, 5016 East 98th Street, Tulsa, Oklahoma, stated he is the neighbor on the west that is not in support of this application. He agreed the yards are large, which is one of the features of the neighborhood. He was opposed to the construction so close to his yard. He suggested if they want to build it large and tall, that they build closer to the house. He complained of vehicle parts in the yard. He noted they already have a garage.

Applicant's Rebuttal:

Mr. Studenny indicated the size of the yard is the hardship; and the pitched roof would provide architectural aesthetics. The vehicle parts that are stored outside would be stored inside.

Comments and Questions:

In response to the Board Mr. Studenny explained that the proposed location in the west corner would give the maximum flexibility as to the size and placing of the pool and related landscaping. Ms. Stead asked if the applicant works on the cars at his home.

Brett Driscoll, 5112 East 98th Street, the homeowner, replied that he does not work on the cars at his home. He admitted he has parts and pieces of vehicles in his yard. He stated he would be able to store all the parts in the building.

Ms. Stead asked if the plans were exactly as it would be constructed. Mr. Studenny replied the plans do not include the landscaping. Mr. White asked if the building was moved forward 11 ft. would they not need the second variance. Mr. Cuthbertson replied that was correct. He added, the limitation on height for a detached accessory building only applies if it is located in the required rear yard in RS-zoning. If it is outside of the required rear yard the height limitation is consistent with straight zoning, which is 35 ft.

Board Action:

On **Motion** of **Stead**, the Board voted 3-2-0 (White, Stead, Tidwell "aye"; Stephens, Henke "nay"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the maximum floor area permitted for detached accessory buildings in the RS-1 district from 1,028 sq. ft. to 1,448 sq. ft. (Section 402.B.1.d); a **Variance** of the maximum permitted height of a detached accessory building located in the 25 ft. required rear yard from 18 ft. to 23 ft. (Section 210.B.5.a) to permit an additional building - garage/pool house, per plan as shown on page 2.6 of the agenda packet, subject to no windows on the south and west of the pool house/garage; noting this is a single-story building; finding that the 28,287 sq. ft. of lot area in the RS district, where the minimum is 13,500 sq. ft., is more than twice the minimum required square footage; these are 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 further noting that twenty-nine families in the neighborhood sent a petition in support of these variances, on the following described property:

LT 24 BLK 5, SUN MEADOW III, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20908

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2) and a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10), located: 5555 South 129th Avenue East.

Presentation:

Andrew Shank, 2727 East 21st Street, Tulsa, Oklahoma, 74114, provided a certificate of survey (Exhibit B-1). He stated the northwest face of the proposed sign is digital and the southeast face a non-digital sign. He indicated that this application represents the northwestern sign of the three outdoor advertising signs proposed on this property today.

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 the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2) and a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10), per certificate of survey, based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

LT 1, BLK 1, FORD MOTOR CO TULSA GLASS PLANT, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20909

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), located: 5555 South 129th Avenue East.

Presentation:

Andrew Shank, 2727 East 21st Street, Tulsa, Oklahoma, 74114, provided the certificate of survey (Exhibit C-1) for a traditional non-digital sign. He indicated that this application represents the middle sign of the three outdoor advertising signs proposed on this property today.

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 the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

LT 1, BLK 1, FORD MOTOR CO TULSA GLASS PLANT, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20910

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2) and a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10), located: 5555 South 129th Avenue East.

Presentation:

Andrew Shank, 2727 East 21st Street, Tulsa, Oklahoma, 74114, stated the sign with the digital face will be to the east and the traditional will face the west. A certificate of survey was provided (Exhibit D-1). He indicated that this application represents the southeastern sign of the three outdoor advertising signs proposed on this property today.

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** the Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2) and a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

LT 1, BLK 1, FORD MOTOR CO TULSA GLASS PLANT, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20911

Action Requested:

Variance of the parking requirement to permit commercial uses within an existing building in a CH district (Section 1200), located: 118 East 18th Street South.

Mr. Stephens recused himself, and left the room at 1:35 p.m.

Presentation:

Jack Jones, 1722 South Carson, Tulsa, Oklahoma, 74119, proposed to open a four-plex health center. Downstairs there would be a trainer's gym, a renters' kitchen/market, and an adult entertainment bar. Upstairs they plan to have a health spa. The building was built in 1930 without a parking lot.

Comments and Questions:

Ms. Stead noted the advertising did not include an adult entertainment establishment. She understood that the existing bar was never approved. Mr. Cuthbertson stated that according to the permit office the active certificate of occupancy permit for this property is for a restaurant and not for an adult entertainment establishment, principal use bar. He added that if they want to convert it to a bar, they would have to verify the spacing and ask for a variance. Mr. Boulden responded that this is really an enforcement issue. He suggested they consider the application on its own merit. Mr. Henke remembered that at some point it was a restaurant. Mr. Jones suggested that they could change it to a coffee shop or juice bar. Ms. Stead noted that they have little or no parking and asked if they have a written agreement with anyone for parking. Mr. Jones replied that they did not. Mr. Boulden stated they would need a license agreement to use the land next to the trail for parking. Mr. Jones counted about 129 parking spaces on the streets within a two-block radius of the subject property, not including those spaces east of Cincinnati in front of homes.

Interested Parties:

John Calkins, 3133 South Boston Court, Tulsa, Oklahoma, stated he is the one marketing the concept and design in this application. He pointed out that the street slopes and causes some elevation problems. The parking is the drawback to various business people, especially those interested in the market. The building will only need limited preparation for these venues.

Jonathon Graber, 1223 South 71st East Avenue, Tulsa, Oklahoma, 74112, stated he is an officer of a corporation that owns the parking lots to the south of the subject tract. They are partnered with Earl Smith, the owner of the house with the parking lot. They are also the primary lease-holding interest in the Pink Rock and Roll Bar. He stated that they purchased their parking lots at a great expense to meet the requirements. Mr. Henke asked him if they would lease their parking. Mr. Graber replied that he would have to look into it, but he was not opposed. He stated they have not been contacted about it.

Josh Martin, 2635 East 14th Place, Tulsa, Oklahoma, stated he is the tenant at 1747 South Boston Avenue, Mercury Lounge. He added that he is not opposed to the application. He shared his preferences regarding parking.

Joel Buffington, 119 East Sheridan, Oklahoma City, Oklahoma, stated he is one of the owners of the bar, Pink. He leases the building and parking lot. He fills up

the lot with 299 spaces every Thursday, Friday, and Saturday, from 8:00 p.m. to close. He does not need it during the day.

Applicant's Rebuttal:

Mr. Jones listed several property owners they contacted without success in acquiring a parking lease agreement.

Board discussion ensued. Mr. White suggested a continuance for the applicant to acquire parking.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0-1 (White, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** Case No. 20911 to the meeting on May 26, 2009, on the following described property:

E 67' OF LT 1 BLK 3, SIEG ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Stephens returned at 2:18 p.m.

Case No. 20767-A

Action Requested:

Amendment to a previously approved site plan (BOA-20767: Variance of the required parking to permit restaurant use in an existing commercial building in a CH district), located: 3723 South Peoria Avenue East.

Presentation:

Scott Trizza, 1011 North Cheyenne, Tulsa, Oklahoma, proposed to amend the previous parking plan for the existing building (Exhibit E-1). He reviewed the amended plan to show an additional parking space, better handicapped parking access, and improved traffic flow. He added that they have support from Brookside Neighborhood Association (Exhibit E-2).

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** the Amendment to a previously approved site plan (BOA-20767: Variance of the required parking to permit restaurant use in an existing commercial building in a CH district), per amended plan as shown on page 7.6 in the agenda packet, on the following described property:

W135 OF S100.5 LT 7 BLK 2, LEE DELL ADDN, City of Tulsa, Tulsa County,
State of Oklahoma

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

Date approved: 5/26/09

Frank X. Howard

Chair