

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1004
Tuesday, June 23, 2009, 1:00 p.m.
Tulsa City Council Chambers
One Technology Chamber
175 East 2nd Street

**MEMBERS
PRESENT**
Stead, Vice Chair
Stephens
Tidwell, Secretary
White

**MEMBERS
ABSENT**
Henke, Chair

**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, June 17, 2009, at 1:58 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Stead 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 4-0-0 (White, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** the Minutes of June 9, 2009 (No. 1003)

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Mr. Cuthbertson informed the Board that the applicant, Roy Johnsen, has made an untimely request for a continuance on Cases No. 20915 and 20915-A to July 14, 2009. However, it appears that all parties are in agreement.

Case No. 20915

Action Requested:

Special Exception to permit a 196 ft. communications tower (Use Unit 4) in the RS-2 district (Section 401); and a Special Exception to reduce the setback to 16 ft. for a communications tower from an adjoining lot line of a residentially zoned lot to the west (Manion Park) (Section 1204.C.3.g.1); to permit a communications tower at Nimitz Middle School, located: 3111 East 56th Street.

Presentation:

Mr. Johnsen stated that the applicant has been working closely with the neighborhoods to find alternate sites for a communications tower. He was hopeful this was their last request for a continuance.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Henke "absent") to **CONTINUE** Case No. 20915 to the meeting on July 14, 2009, on the following described property:

Beginning at the SW corner of the SE/4 of the NE/4 of Section 32, Township 19 North, Range 13 East, Tulsa County, Oklahoma, thence North 726 feet, thence East 600 feet, thence South 726 feet, thence West 600 feet to the point of beginning, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

Case No. 20915-A

Action Requested:

Special Exception to modify the required 215.6 ft. setback of a communications tower from an adjoining lot line of a residential zoned lot (Section 1204.C.3.g.1); to permit a communications tower on a CS zoned lot, located: 5200 South Harvard Avenue.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Henke "absent") to **CONTINUE** Case No. 20915-A to the meeting on July 14, 2009, on the following described property:

PRT BLK 1 BEG 288N SECR TH W215 N152 E215 S152 POB, HARVARD PARK SOUTH AMD, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

UNFINISHED BUSINESS

Case No. 20924

Action Requested:

Special Exception to permit required off-street parking on a lot other than the one containing the principal use (Section 1301.D); to permit parking on excess ODOT right-of-way, located: Southeast corner of South 33rd West Avenue and I-44.

Presentation:

Jim Beach, Wallace Engineering, 200 East Brady, Tulsa, Oklahoma, mentioned this case was continued to this meeting. The applicant does not have the parking lease agreement as of yet. He asked Randle White to attend this meeting to answer any questions regarding the parking lease with ODOT.

Randle White stated the lease is currently with ODOT attorneys and they are obtaining an appraisal of the property. He added that the lease appears to be alright.

Comments and Questions:

Ms. Stead asked for a time line on a written agreement. He could not give a definite date. In response to questions from the Board, Mr. Beach stated the building is virtually ready to occupy. He indicated they are now waiting for approval of the parking and certificate of occupancy.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On ~~Motion~~ of ~~White~~, the Board voted 4-0-0 (White, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Henke "absent") to CONTINUE Case No. 20924 to the meeting of July 14, 2009, on the following described property:

Lot 1, Block 1, PEOPLES BANK CARBONDALE, AND a tract of land described as follows BEGINNING AT A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH 33RD WEST AVENUE WHICH IS THE NORTHWEST CORNER OF LOT 1, BLOCK 1, PEOPLES BANK CARBONDALE, ACCORDING TO THE RECORDED PLAT THEREOF, RECORDED IN TULSA COUNTY AS PLAT NUMBER 6227; THENCE ALONG THE NORTHERLY LINE OF SAID LOT 1, BLOCK 1 TO THE NORTHEAST CORNER OF SAID LOT 1, BLOCK 1; THENCE NORTH 00° 00' 20" EAST FOR A DISTANCE OF 35.00 FEET; THENCE WESTERLY PARALLEL TO THE NORTH LINE OF SAID LOT 1, BLOCK 1 TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH 33RD WEST AVENUE; THENCE SOUTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 20926

Action Requested:

Variance of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign for a church in the R district (Section 402.B.4), located: 7291 East 81st Street.

Presentation:

Gene Russell, 1225 North Lansing, Tulsa, Oklahoma, stated they were contracted by the Central Church of the Nazarene to replace the existing sign. The plans and a photograph were submitted (Exhibits A-1 and A-2). They have a twenty-acre campus. They offer the use of their facilities for public meetings, election polls, scout troops, ball teams, civic organizations, and other community activities. They believe this sign is the best way to communicate with the community. They are aware of the code requirements for digital signs and they intend to comply. They have not met in a public forum to inform the neighborhood of the plans.

Interested Parties:

John Whitsett, 7907 South Hudson Place, Tulsa, Oklahoma, stated he is the pastor of the church. He assured the Board they try to be a good neighbor. He stated they are keenly aware that 81st Street is a two-lane road. He mentioned this type of sign would be much easier for them to maintain and provide the most current information.

Comments and Questions:

Mr. Stephens asked for the hardship. Mr. Russell responded that because of the multiple public activities this would be a more reliable way to communicate to the community. He responded that this is not like a business, as they are not trying to get people to come to their church instead of another. They are allowing the use of the facilities by the community organizations.

Interested Parties:

Lyle Johnson, 7933 South 72nd East Avenue, Tulsa, Oklahoma, stated the church has a long history as a good neighbor. He had no objections and no concern for lighting issues.

Comments and Questions:

Ms. Stead asked about the number of message lines. Mr. Russell responded that using five lines would make the letters too small and harder to read. He recommended three lines and a larger font size. She reminded him that the Board would not approve any blinking or flashing, and would approve left to right horizontal scrolling. He replied that the sign would be per the plan submitted.

Board Action:

On **Motion of Stephens**, the Board voted 4-0-0 (White, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Variance of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign for a church in the R district (Section 402.B.4), per plan as shown on page 4.7 of the agenda packet, and page 4.8 for the sign, with conditions for a three-line message, finding the hardship is that the communication technology now available makes this facility better for communicating with the neighborhood, playing a more active role if necessary; to replace the existing sign on the same location; no blinking, flashing, or twinkling; and according to Section 1221.C.2, except 1221.C.2.c; 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:

W/2 SW SE LESS E105.2 N165 THEREOF & LESS S50 THEREOF FOR RD SEC 11 18 13, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20930

Action Requested:

Variance of the minimum lot width required in the RS-4 district from 50 ft. to 47 ft. - 6 in. (Section 403) to permit a lot split, located: 924 East Tecumseh Street.

Presentation:

Calvin Mitchell, for Habitat for Humanity, 6235 East 13th Street, Tulsa, Oklahoma, 74112, stated the request.

Comments and Questions:

He responded to Mr. White that they built a house on the north end of this property donated by a church. The church requested the south portion back as part of the agreement. Mr. White noted originally the subject property was platted an adequately wide lot of 72.6'. The City took 25' off in 1942 before the zoning code restrictions. The hardship was created by the zoning code.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Variance of the

minimum lot width required in the RS-4 district from 50 ft. to 47 ft. - 6 in. (Section 403) to permit a lot split, finding the hardship being the lot was originally platted with adequate width, but the subsequent taking of the east 25' thereof by the City for street purposes in 1942, made it be too narrow when the 1970 zoning code went into effect, therefore it is now less than the minimum amount; 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:

W47.6 LT 1 BLK 3, CARTER ADDN, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

Case No. 20931

Action Requested:

Variance of the setback requirement for an LED message board visible from an R district from 200' to 51' (Section 1221.C.2.c), located: 6705 East 91st Street South.

Presentation:

Richard Craig, 1889 North 105th East Avenue, Tulsa, Oklahoma, 74116, submitted photographs (Exhibits B-2 and B-3); and a site plan (Exhibit B-1) was in the agenda packet. The applicant proposed to replace the small signs on the lower portion of the existing sign and replace it with an LED message board. He pointed out they were taking down more signage surface than they would replace, so it would be less sign surface. The residential district is 190' instead of the required 200' on the east side. Mr. Craig thought that without the approval, the whole structure would have to be moved 10' to the west to comply with the setback from the residences to the east.

Comments and Questions:

Ms. Stead asked if the total signage would be the LED as shown to the Board. Mr. Craig stated there would be one on the east and the west.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On Motion of Stephens, the Board voted 4-0-0 (White, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Variance of the setback requirement for an LED message board visible from an R district from 200' to 51' (Section 1221.C.2.c), per the existing structure as shown on page 6.8 of the

agenda packet, with conditions for a three-line sign, to allow left to right horizontal scrolling, subject to Section 1221.C.2, 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 NWC TH E390.32 S536.68 W360.61 TH ON CRV RT47.11
N506.68 POB BLK 1, SQUARE ONE, City of Tulsa, Tulsa County, State of
Oklahoma

There being no further business, the meeting adjourned at 1:57 p.m.

Date approved: July 14TH 2009

Frank N. H. III

Chair