

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1006
Tuesday, July 28, 2009, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

**MEMBERS
PRESENT**

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

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Alberty
Butler
Bates

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, July 22, 2009, at 5:08 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Henke called the meeting to order at 1:01 p.m.

Mr. Alberty 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 July 14, 2009 (No. 1005).

REQUESTS TO CONTINUE AND CASES TO WITHDRAW

Case No. 20932

Action Requested:

Appeal the decision of a neighborhood inspector; to permit vehicles to be parked or stored on a surface NOT constructed of an all-weather material (gravel) (Section 210.C), located: 956 East 37th Place.

Presentation:

Mr. Alberty informed the Board that Brian Huddleston, the attorney representing the applicant, sent an email stating they withdrew the appeal.

Board Action:

No action was necessary regarding Case No. 20932, regarding the following described property:

LT 1 BLK 2, BRUCE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20951

Action Requested:

Variance of the maximum building height in an RM district (Section 403) from 35 ft. to 42 ft. to permit a roof access stair enclosure and open pergola on an existing townhouse, located: 1105 East 7th Street.

Presentation:

Mr. Alberty informed the Board this case was withdrawn, as it did not need Board of Adjustment action. It is under a PUD, and the planned unit development will cover the requested action.

Board Action:

There was no Board action needed, regarding the following described property:

LT 7 BLK 1, VILLAGE AT CENTRAL PARK, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20944

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 library in the R district (Section 402.B.4); and a **Variance** of the 50 ft. setback from the driving surface of a signalized intersection (Section 1221.C.2.a), located: Southwest corner of East 51st Street and South Hudson Avenue.

Presentation:

Mr. Alberty informed the Board this case may require some additional notification and advertisement. There is also a question about what applies to this case.

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. 20944 to the meeting on August 11, 2009, on the following described property:

W795 E875 S1475 N1525 NW LESS BEG 50S & 80W NEC NW TH S29.94
NWLY CRV LF 47.06 E29.94 POB SEC 34 19 13, City of Tulsa, Tulsa County,
State of Oklahoma

Case No. 20950

Action Requested:

Variance of the maximum permitted height for a fence/wall located in the required front yard from 4 ft. to 6 ft. (Section 210.B.3); a Variance of the maximum permitted height for a detached accessory building located in the required rear yard to two (2) stories, 21 ft. at the top plate, and 26 ft. total (Section 210.B.5.a); a Variance of the maximum amount of coverage for a detached accessory building of the required rear yard in the RS-1 district from 20% to 29% (Section 210.B.5.a) and a Variance of the maximum number of unconnected parking areas permitted in the front yard from one (1) to two (2) (Section 1301.C), located: 2627 East 33rd Street.

Presentation:

Mr. Alberty informed the Board that Roy Johnsen requested a continuance of Case No. 20950 to the meeting on August 11, 2009.

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. 20950 to the meeting on August 11, 2009, on the following described property:

PRT NE NW BEG 998S & 936E NWC NE NW TH E120 S161 W120 N161 POB
LESS S25 FOR ST SEC 20 19 13, 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:

The applicant was not present. Ms. Stead stated for the record that this case has been continued at the request of the applicant, and the Board is not holding up anything on this case.

Comments and Questions:

Board members discussed whether to continue the case or deny without prejudice.

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. 20924 to the meeting on September 8, 2009, or earlier if the applicant requests, 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. 20937

Action Requested:

Variance of the maximum permitted coverage of a required front yard by a parking area (driveway) in an RS-1 district from 25% (Section 1303.D); and a Special Exception to modify the height of a fence in the required front yard from 4' to 8' (Section 210.B.3), located: 2806 East 31st Street.

Mr. Henke recused himself from the three cases for this applicant, out at 1:10 p.m.

Presentation:

The applicant was not present. Ms. Stead recognized an interested party who wished to speak.

Jack McNulty, 3106 South Delaware Place, Tulsa, Oklahoma, 74105, stated he is one of the neighbors. He added that he spoke with Mr. Enterline within the hour before this meeting and was informed that the case may be called off today.

Ms. Stead asked staff to contact the applicant to see if someone planned to present cases 20937, 20938, and 20939 for the applicant.

Mr. Henke returned at 1:12 p.m.

Case No. 20934

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 outdoor advertising sign facing the same traveled way (Section 1221.G.10), located: 10338 East 11th Street.

Presentation:

Lorenda Elizando, 7777 East 38th Street, Tulsa, Oklahoma, 74145, stated she was present for the verification of spacing.

Mr. Henke explained that the hearing of this case is for verification of spacing only.

Interested Parties:

V.C. Muckentihaler, 10507 East 12th Street, Tulsa, Oklahoma, 74128, stated his understanding of this case was for verification of spacing. He added he wanted to stop the placement of the sign.

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 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:

COMM 50E & 265S NWC NE NW TH S185 E599.06 TO POB TH E392.98 TO WLY RW HWY 169 TH NW ALG RW 325.70N70.09 W189.75 S170 W116.81 S214.99 POB SEC 7 19 14 2.577ACS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20940

Action Requested:

Variance of the maximum height permitted for a detached accessory building in the required yard in the RS-2 district from 10 ft. at the top plate to 12 ft. (Section 210.B.5.a), located: 1503 East 26th Place.

Presentation:

Hal Tompkins, 3002 South Utica, Tulsa, Oklahoma, emphasized he wants an increase of the height of the top plate, not the total height of the garage. He stated the topography of the lot slopes about five feet from the northwest corner to the southeast corner.

Comments and Questions:

Ms. Stead confirmed with the applicant that the detached accessory meets the code. Mr. Tompkins replied that he has the permit to build, and just needs the increase of the height of the top plate.

Interested Parties:

Eduardo Nunez, 1504 East 26th Street, Tulsa, Oklahoma, 74114, stated he wanted to know for sure what the applicant requested. Ms. Stead explained the request and he was satisfied.

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 maximum height permitted for a detached accessory building in the required yard in the RS-2 district from 10 ft. at the top plate to 12 ft. (Section 210.B.5.a), finding the hardship to be the topography of the lot slopes, and in order to construct the building as designed it is necessary to increase the top plate two feet; 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 & E/2 LT 6 LESS BEG NEC LT 5 TH SWLY 24.89 SELY 142.64 NELY 139.75 POB BLK 12, TERWILLEGER HGTS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20942

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: 5852 South 107th Avenue.

Presentation:

Lorenda Elizando, 7777 East 38th Street, Tulsa, Oklahoma, 74145, appeared for verification of spacing for an outdoor advertising sign.

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), 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:

N320 LT 13 & E26.39 N320 LT 14 LESS BEG 320.93 N SECR LT 14 TH NW81.04 S76.58 E26.39 POB BLK 2, GOLDEN VALLEY, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20945

Action Requested:

Verification of the spacing requirement for a family day care home of 300 ft. from another family day care home (Section 402.B.5.g), located: 10953 East 3rd Street South.

Presentation:

Jerry Powers, 10953 East 3rd Street South, Tulsa, Oklahoma, 74128, stated his request. They proposed to provide care for seven children.

Comments and Questions:

In response to questions, Mr. Powers stated the hours of operation would be 7:00 a.m. to about 5:00 p.m. He found no other daycare centers in the 300 ft. radius.

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 a family day care home of 300 ft. from another family day care home (Section 402.B.5.g), subject to action of the Board being void should another family daycare home be established prior to this family daycare home, on the following described property:

LT 7 BK 21, WAGON WHEEL ADDN B19-25, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20946

Action Requested:

Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3), located: 1605 North Peoria Avenue.

Presentation:

Otis Williams, 345 East Apache, Tulsa, Oklahoma, 74106, represented the applicant. Mr. Henke asked if they met the spacing requirements within 300 ft. of the subject property, to which Mr. Williams replied affirmatively.

Interested Parties:

Esther Ogans, 2202 North Owasso, Tulsa, Oklahoma, 74106, President of the Lacy Park Task Force, referred to the Sector Plans for north Tulsa. She stated this plan specifies no liquor stores in this neighborhood. She added that they have been working on a shopping center in the area and they did not want any negative influence. Mr. Henke explained to her that the Board is bound by the zoning code and a liquor store can go on the subject property as it meets the code. Ms. Ogans asked if no one is bound by the Sector Plans. Mr. Alberty responded that the Sector Plan was adopted and included Use Units 13 and 14, which allow liquor stores. That plan was only useful when the property was originally owned by the Tulsa Development Authority. They have sold this property. He stated that the use is not an issue in this case. He added that her concern would be with the owner of the property, as they are in control of the use within the code.

Rosco Turner, 3415 East Haskell Street, Tulsa, Oklahoma, 74115, stated this is valuable land with which they have had some problems. The citizens in north Tulsa are opposed to this use. He asked where they go now that they cannot count on the Sector Plan.

Comments and Questions:

Mr. Alberty explained that it is difficult to pick out one Use Unit and eliminate it, based upon a plan other than the zoning code. He stated it would require an ordinance change and that would affect all of the other businesses throughout Tulsa, not just this location.

Michael Reed, 4601 Starling Court, Sapulpa, Oklahoma, stated his family is two blocks from the Albertson site, and within two blocks of the subject property. He questioned if the removal of the Sector Plan obstructs the Citizen's Review Committee from being informed about this application. Mr. Alberty responded to Mr. Reed, stating his understanding is that the Sector Plans and citizens' input is applicable at the time that the Development Authority owns the property. Once the property is sold to a private owner, then the notification process is by the zoning code. Ms. Stead suggested they contact the property owner.

A letter of opposition was sent to the Board prior to the meeting (Exhibit A-1).

Applicant's Rebuttal:

Mr. Williams responded that they appreciate the concerns of the community. He added that they need some business activity. He stated the business would be run well and they would have security present.

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 a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3), subject to the action of the Board being void should another above referenced conflicting use be established prior to this liquor store, on the following described property:

LT 1, GATEWAY PLAZA RSB PT HUNTER PT BROADVIEW PT T DICKSON,
City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20124-A

Action Requested:

To modify the previously approved site plan, located: 4019 South 127th East Avenue.

Presentation:

Jim Schwerts, 3605 North Narcissus, Broken Arrow, Oklahoma, 74012, stated he is the owner of a mini-storage facility. He proposed to add a building for storage (Exhibit B-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** the modification of a previously approved site plan, as shown on page 13.6 of the agenda packet, in granting this approval the Board determined the amended site plan is in keeping with the spirit and intent of the previously approved site plan for the mini-storage facility, and that the proposed changes will not be detrimental to the surrounding neighborhood, on the following described property:

ALL LTS 6 THRU 9 & LT 10 & W121.03 LT 1 LESS BEG SWC LT 10 TH N40 E271.03 S190 W121.03 SWC LT 1 N150 W150 POB BLK 1, PARK PLAZA SQUARE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20952

Action Requested:

Verification of the spacing requirement for a liquor store of 300 ft. from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3), located: 7422 South Olympia Avenue.

Presentation:

Jack Moore, 910 West 57th Street, Oklahoma City, Oklahoma, with Paris Projects, stated he represents the developer and Wright Architects. He added he was present to answer questions.

Comments and Questions:

Ms. Stead asked if he could state that within the 300 ft. radius, there are none of the uses that would prevent putting a liquor store on the subject property. Mr. Moore responded there were none of those uses.

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 a liquor store of 300 ft. from blood

banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3), on the following described property:

LT 4 BLK 1, TULSA HILLS, City of Tulsa, Tulsa County, State of Oklahoma

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Mr. Alberty announced that staff reached Mr. Enterline's office and he was out of town and he suggested that the cases be continued.

Mr. Henke recused himself for the Board to hear from interested parties on Cases 20937, 20938, and 20939. Mr. Henke out at 1:51 p.m.

Case No. 20937, 20938, and 20939

Action Requested:

Variance of the maximum permitted coverage of a required front yard by a parking area (driveway) in an RS-1 district from 25% (Section 1303.D); and a Special Exception to modify the height of a fence in the required front yard from 4' to 8' (Section 210.B.3), located: 2806 East 31st Street.

Variance of the maximum permitted coverage of a required front yard by a parking area (driveway) in an RS-1 district from 25% (Section 1303.D); and a Special Exception to modify the height of a fence in the required front yard from 4' to 8' (Section 210.B.3), located: 2810 East 31st Street.

Variance of the maximum permitted coverage of a required front yard by a parking area (driveway) in an RS-1 district from 25% (Section 1303.D); a Special Exception to modify the height of a fence in the required front yard from 4' to 8' (Section 210.B.3); and a Variance of the rear yard requirement from 25 ft. to 21' - 10" (Section 403), located: 2814 East 31st Street.

Ms. Stead asked the interested parties if they had any objection to a continuance.

Interested Parties:

Fred Hegenbart, 525 South Main, Suite 700, Tulsa, Oklahoma, 74103, stated he came to the last meeting and he came to this meeting. He stated that he is a neighbor and wanted the cases to be heard at this meeting. He expressed opposition to an eight-foot wall or a lot of concrete in the front yard. He planned to attend the next meeting if the cases were continued.

Robert Morton, 3114 South Delaware Place, Tulsa, Oklahoma, 74105, pointed out that the site map does not show where the fence has been placed. He stated that the elevation of the fence has no conformity to the other fences in the block. He did not see a measurement of the distance from the gate to the curb. He noted there is no indication as to the affect on the traffic. He did not object to a continuance of these cases.

Jack McNulty, 3106 South Birmingham Place, Tulsa, Oklahoma, 74105, expressed concern that the sketches were not adequate. He did not object to a continuance.

Comments and Questions:

Ms. Stead asked staff to let the applicant know the Board and interested parties want more information on these applications for the next meeting.

Kevin Coutant, 320 South Boston, Suite 500, Tulsa, Oklahoma, 74103, represented one of the neighbors, Becky Dorsehorse, who owns the property immediately to the west. They did not object to a continuance.

Board Action:

On **Motion of White**, the Board voted 4-0-1 (White, Stephens, Stead, Tidwell "aye"; no "nays"; Henke "abstained"; no "absences") to **CONTINUE** Cases 20937, 20938, and 20939 to the meeting on August 11, 2009, on the following described properties:

2806 East 31st Street
PRT LT 1 BEG NWC TH E122.25 S156.11 SWLY127.86 N194 W100 POB BLK 2, CHARLANE EST AMD B1-2, City of Tulsa, Tulsa County, State of Oklahoma

2810 East 31st Street
PRT LT 1 BEG SWC TH N96 NE127.86 N156.11 E30 S156 SE104.42 S112 W254.25 POB BLK 2, CHARLANE EST AMD B1-2, City of Tulsa, Tulsa County, State of Oklahoma

2814 East 31st Street
PRT LT 1 BEG NEC TH S178 NWLY104.42 N156 E102 POB BLK 2, CHARLANE EST AMD B1-2, CHARLANE EST AMD B1-2, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Henke returned at 1:58 p.m.

There being no further business, the meeting adjourned at 1:59 p.m.

Date approved: August 11, 2009


Chair