

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1008
Tuesday, August 25, 2009, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East Second Street

**MEMBERS
PRESENT**
Henke, Chair
Tidwell, Secretary
Van De Wiele
White

**MEMBERS
ABSENT**
Stead, Vice Chair

**STAFF
PRESENT**
Alberty
Cuthbertson
Butler

**OTHERS
PRESENT**
Boulden, P., Legal
Brierre, R.
Domin, A.

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, August 19, 2009, at 1:18 a.m., as well as at the Office of INCOG, Two West Second Street, Suite 800.

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.

Mr. Henke introduced Stuart VanDeWiele, as the new Board of Adjustment Member.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20937, 20938, and 20939

Action Requested:

The Board determined to hear the three cases collectively.

Case No. 20937

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.

Case No. 20938

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)

Case No. 20939

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)

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, Oklahoma, requested a continuance since there will only be three voting members for these applications. He stated that he notified staff they are withdrawing Case. No. 20937. He also stated they were withdrawing the request for relief of the height of a wall in the front yard in Cases 20938 and 20939.

Interested Parties:

There were no interested parties opposed to the continuance.

Board Action:

On **MOTION** of **White**, the Board voted 4-0-0 (White, Henke, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Stead "absent") to **CONTINUE** Case No. 20938 and Case No. 20939 to the meeting on September 8, 2009; and the Board acknowledged that the request for relief of the height of a wall in the front yard has been withdrawn in Cases 20938 and 20939, on the following described property:

Case No. 20938

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

Case No. 20939

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

The Board recognizes Case. No. 20937 has been withdrawn, on the following described property:

Case No. 20937

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

MINUTES

On **MOTION** of **Tidwell**, the Board voted 4-0-0 (White, Henke, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Stead "absent") to **APPROVE** the Minutes of August 11, 2009, 2009 (No. 1007)

UNFINISHED BUSINESS

Case No. 20954

Action Requested:

Minor Special Exception to modify a previously approved site plan to permit an addition to and reconfiguration of an existing parking area; and a Variance of the setback requirement for a parking area from the centerline of an abutting street from 55 ft. to 36 ft. (Section 1302.B), located: 6210 South 105th East Avenue.

Presentation:

Jim Beach, 200 East Brady Street, Tulsa, Oklahoma, Wallace Engineering, referred to the aerial photograph in the agenda packet. He pointed out the existing parking lot located on the subject lot perpendicular to the Mingo Valley Expressway, which is the one they proposed to replace. He noted there have been several revisions to this lot since it was originally approved a number of years ago. They propose to expand the parking area as they need to allow as much parking as possible on this lot. They also requested a variance of the setback from 105th East Avenue. There are no single-family dwellings impacted by this parking lot modification. The hardship is that this is not the typical residential property nor is the surrounding property typical of an R district.

Comments and Questions:

Mr. White noted the street to the east was labeled 106th East Place on the site plan. Mr. Beach responded that it is a mistake on the site plan, it is 105th East Avenue.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **White**, the Board voted 4-0-0 (White, Henke, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Stead "absent") to **APPROVE** a Minor Special Exception to modify a previously approved site plan to permit an addition to and reconfiguration of an existing parking lot; and a Variance of the setback requirement for a parking area from the centerline of an abutting street from 55 ft. to 36 ft. (Section 1302.B); 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; in granting the variance, the hardship being that the code was established to prevent the separation from residentially used area, while this is residentially zoned it is not residentially used; 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 1 THRU 4 LESS BEG NEC TH W169.66 SE243.74 N174.67 POB BLK 5,
UNION GARDENS, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20962

Action Requested:

Special Exception to permit an Asphalt Plant and Accessory uses (Use Unit 27) in an IM district (Section 901), located: 2112 North 129th East Avenue.

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, Oklahoma, stated the property is a 38 acre parcel that has been split and approved by the planning commission with the easterly 25 acres purchased for an asphalt plant. It is zoned IM and they need a special exception for this use. The site proposed for the plant is more than 1,300 ft. from the nearest house. It is surrounded by two concrete ready-mix facilities. There is a railroad track to the north and a setback of almost ¼ mile from 129th East Avenue. He pointed out the wooded area and topographical changes would be adequate screening from the nearest house.

Interested Parties:

There were no interested parties.

Board Action:

On **MOTION** of **White**, the Board voted 4-0-0 (White, Henke, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Stead "absent") to **APPROVE** a Special Exception to permit an Asphalt Plant and Accessory uses (Use Unit 27) in an IM district (Section 901), 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, on the following described property:

PRT NE BEG 1876.90S NEC NE TH S APPROX 762.664 W2640 N APPROX
519.317 TO SL RR RW TH NELY ALONG SLRR RW POB SEC 29 20 14, City
of Tulsa, Tulsa County, State of Oklahoma

LT 8 BK 2, LTS 9 & 10 LESS N18 LT 9 & E18 S52 LT 9 & LESS E18 LT 10 BLK 2, PEBBLES ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20943

Action Requested:

Variance of the required rear yard from 20' to 10' to permit a detached accessory building (Section 210.A), located: 102 East 22nd Street South.

Presentation:

Tom Layon, 102 East 22nd Street, Tulsa, Oklahoma, stated the hardship is created by an elevated lot. The home fronts on East 22nd Street. The proposed garage would run along Boston and access would be from Boston (Exhibit B-1). The elevation from the street to the base of the front wall is seven feet and two inches. It is not feasible to place the garage in the front yard. The house was built more to the back north side of the middle of the property, so there is not much back yard. There is a bay window on the south side of the house that would be eight feet and eight inches from the north wall of the garage. Mr. Layon stated they communicated the plans with several neighbors and the Maple Ridge Homeowner's Association and received support. He pointed out other neighboring properties with garages that are also within a few feet from the property line.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **White**, the Board voted 4-0-0 (White, Henke, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Stead "absent") to **APPROVE** a Variance of the required rear yard from 20' to 10' to permit a detached accessory building (Section 210.A), per plan labeled Site Plan A; finding the hardship to be the significant elevation change from the street to the north to the house, which makes the construction of the garage on the 22nd Street side to be very near impossible, and there is adequate room in the rear yard given this relief, and also because the underlying zoning of Mr. Layon's property and the property on the south side of 22nd is all RM-0, but it abuts property to the south side of their rear property line, which is actually RS; 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 25' OF LT 2 ALL OF LTS 3 & 4 BLK 6, RIVERSIDE DRIVE ADDN THIRD
AMD, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20963

Action Requested:

Variance of the front yard requirement (abutting 67th E. Av.) from 25 ft. to 9 ft. (Section 403) to permit an accessory church building, located: Southeast corner of North 67th East Avenue and East Oklahoma Place.

Presentation:

Steve Olsen, 324 East 3rd Street, Tulsa, Oklahoma, 74120, stated they have been working with St. Peter and Paul Church. They proposed to build an office building on the subject property in between the existing parking lots. They have applied for a street closure to make the church and subject properties to be one for the church and school. Mr. Olsen mentioned that White Surveying was handling the closure of the street.

This being new information to the Board, Mr. White abstained from Case No. 20963.

Mr. Olsen stated the neighborhood association is in support.

Interested Parties:

There were no interested parties.

Comments and Questions:

Mr. Boulden questioned if the subject property was approved for church use. Mr. Cuthbertson responded that in 2007 this Board approved a special exception on this property for accessory church use. This is being reviewed as a setback for the church use from 67th East Avenue. It is a corner lot so they can choose their front yard and they are orienting the building to 67th East Avenue. It has to be set back 25 feet from the 67th East Avenue property line. He added this is based on 67th East Avenue being a public street and remaining open as a public street. If the street is closed then the front yard reverts to Oklahoma Place to the north. Mr. Cuthbertson stated this action would have no relationship to the request for closure of 67th East Avenue.

Board Action:

On **MOTION** of **Tidwell**, the Board voted 3-0-1 (Henke, Tidwell, Stephens "aye"; no "nays"; White "abstained"; Stead "absent") to **APPROVE** a Variance of the front yard requirement (abutting 67th E. Av.) from 25 ft. to 9 ft. (Section 403) to permit an accessory church building, 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 7 BLK 5, LT 8 BLK 5, SAINT PETER AND PAUL SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20964

Action Requested:

Special Exception to permit an apartment (Use Unit 8) use in a CS district (Section 701) as an accessory to an existing hotel/motel use, located: 1347 East Skelly Drive.

Presentation:

Mike Patel, 1347 East Skelly Drive, Tulsa, Oklahoma, 74105, owns the Peoria Inn Motel, and proposed to build an apartment for him and his family. The apartment would be located inside the existing lobby/office building. This application proposes only an accessory apartment and does not contemplate connecting the motel into an apartment complex.

Interested Parties:

There were no interested parties.

Comments and Questions:

Mr. White asked if it would be as the site plan shows (Exhibit C-1).

Board Action:

On **MOTION** of **White**, the Board voted 4-0-0 (White, Henke, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Stead "absent") to **APPROVE** a Special Exception to permit an apartment (Use Unit 8) use in a CS district (Section 701) as an accessory to an existing hotel/motel use, per plan as shown on page 10.8 of the agenda packet, 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, on the following described property:

LT 6 LESS E50 BLK 15, BELLAIRE ACRES SECOND EXT, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20970

Action Requested:

Special Exception to permit a restaurant as an accessory park use (Use Unit 5) in an AG and RM-2 district (Section 301 & 401), located: 1900 Riverside Drive.

Presentation:

Matt Meyer, 717 South Houston Avenue, Suite 510, Tulsa, Oklahoma, 74127, Director for River Parks Authority, came to present the case. The River Parks Authority sought proposals for a restaurant on this site. Out of seventeen interested parties only two submitted proposals. A committee evaluated the proposals and interviewed restaurant teams. The Board of Trustees permitted them to begin negotiations with Swamp House Partners, the investors for the Blue Rose. A contract was approved to move forward with the Blue Rose. It is basically a ground lease with a ten year primary term and option for four additional terms. The proposed Blue Rose Restaurant is a year round facility full-service restaurant, and it is a public/private partnership with River Parks (Exhibit D-1). They consider it an accessory to River Parks. The City of Tulsa has allocated \$250,000.00 for infrastructure for this area, in the 2006 third penny sales tax program. These funds would be used for new and expanded parking, landscaping, and lighting, but not for the restaurant itself. Mr. Meyer referred to the staff report, regarding restrooms. The restaurant would have restrooms for their customers. River Parks plans to demolish the existing park restroom next to the café. The new restroom facilities would be about 200 yards north near the playground, also funded by the 2006 third penny sales tax. The design is nearly complete and should be out to bid in a few weeks.

Comments and Questions:

Mr. Tidwell asked if the \$250,000.00 included the restrooms and additional parking or if the restrooms would come from a different source. Mr. Meyer replied that the restrooms would come from a different source. He was confident that all of the \$250,000.00 would be used up for the parking, lighting, and landscaping.

Mr. Van De Wiele asked about renovations of the cabana. **Tom Dittus**, 2032 East 14th Place, Tulsa, Oklahoma, responded that they will do a significant clean-up of the cabana and open it during the construction of the actual restaurant facility. It would be operated days and evenings as part of the Blue Rose.

Ted Reeds, 2872 East 35th Place, Tulsa, Oklahoma, architect of the Blue Rose, introduced himself to the Board. He did not have any more comments to add to the case.

Interested Parties:

There were no interested parties. The Board received a letter of support for this application (Exhibit D-2).

Board Action:

On **MOTION** of **White**, the Board voted 4-0-0 (White, Henke, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; Stead "absent") to **APPROVE** a Special Exception to permit a restaurant as an accessory park use (Use Unit 5) in an AG and RM-2 district (Section 301 & 401), per conceptual plan, 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, on the following described property:

A TRACT OF LAND IN THE SOUTHWEST QUARTER (SW/4) OF SECTION TWELVE (12), TOWNSHIP NINETEEN (19) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN MERIDIAN, TULSA COUNTY, OKLAHOMA, SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE SOUTH 01°07'51" EAST ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, SAID LINE BEING THE WEST LINE OF STONEBRAKER HEIGHTS ADDITION, A DISTANCE OF 2091.40 FEET; THENCE NORTH 88°52'09" EAST A DISTANCE OF 132.09 FEET TO THE POINT OF BEGINNING; THENCE NORTH 62°55'44" EAST A DISTANCE OF 131.12 FEET; THENCE SOUTH 31°57'51" EAST A DISTANCE OF 105.77 FEET; THENCE NORTH 60°31'48" EAST A DISTANCE OF 163.36 FEET; THENCE SOUTH 31°57'51" EAST A DISTANCE OF 597.08 FEET; THENCE SOUTH 61°35'54" WEST A DISTANCE OF 396.13 FEET; THENCE NORTH 02°25'58" WEST A DISTANCE OF 254.16 FEET; THENCE NORTH 31°57'51" WEST A DISTANCE OF 228.89 FEET; THENCE NORTH 72°32'24" WEST A DISTANCE OF 79.05 FEET; THENCE NORTH 23°31'30" WEST A DISTANCE OF 188.50 FEET TO THE POINT OF BEGINNING. SAID DESCRIBED TRACT OF LAND CONTAINS AN AREA OF 194,995.05 SQUARE FEET OR 4.47 ACRES, MORE OR LESS.

There being no further business, the meeting adjourned at 1:50 p.m.

Date approved: September 8th, 2009

Frank N. Henke, Jr.
Chair