

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1009
Tuesday, September 8, 2009, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

**MEMBERS
PRESENT**
Henke, Chair
Stead, Vice Chair
Tidwell, Secretary
Van De Wiele
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, September 2, 2009, at 2:08 p.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 1:00 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, Van De Wiele "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of August 25, 2009 (No. 1008)

REQUEST TO CONTINUE AND CASES TO WITHDRAW

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 Interstate - 44.

Presentation:

Mr. Cuthbertson informed the Board this case was withdrawn.

Ms. Stead asked Mr. Beach if Case No. 20924 would come back to the Board in the future. Mr. Beach responded that they determined the bank owns the property and not ODOT, and there was no need to lease it from ODOT.

Board Action:

No Board action was needed 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

Case No. 20968

Action Requested:

Variance of the maximum permitted height for a detached accessory building located in the required rear yard in the RE district from 18 ft. total height to 22 ft. - 6 in. (Section 210.B.5.a) to permit a new cabana, located: 2834 South Utica Avenue.

Presentation:

Mr. Cuthbertson informed the Board that the applicant withdrew Case No. 20968 as the property is under contract for sale.

Board Action:

No action was necessary on the following described property:

LT 16 BLK 1, ROCKBRIDGE PARK, City of Tulsa, Tulsa County, State of Oklahoma

UNFINISHED BUSINESS

Case No. 20953

Action Requested:

Variance of the setback requirement for a 50 ft. tall ground sign from an abutting street from 25 ft. to 17 ft. in a CO district (Secion 1221.D.1), located: 3141 East Skelly Drive.

Presentation:

Terry Howard, 4905 South 168th East Avenue, Tulsa, Oklahoma, stated this variance is for the relocation of the Trade Winds pole sign to accommodate the temporary easement for construction of I-44. He pointed out that Joe Creek runs across the property as a 10 ft. x 10 ft. concrete culvert at an angle right behind the sign as well. These two easements affect the location of the sign.

Comments and Questions:

Ms. Stead asked if the plan on page 3.8 of the agenda packet is exactly what they proposed to build (Exhibit A-1). He replied that it is. It was determined that the sign has already been relocated as it is shown on the site plan.

Interested Parties:

There were no interested parties.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Van De Wiele, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the setback requirement for a 50 ft. tall ground sign from an abutting street from 25 ft. to 17 ft. in a CO district (Section 1221.D.1), with a condition for no LED technology, digital or flashing, finding that of necessity this sign has to be moved because of the realignment of I-44, in granting the variance the Board found 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; the Board found 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 BLK 1, TRADE WINDS ADDN RES L4-6 & PRT L14-16&17 B2 VILLA GROVE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20938

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: 2810 East 31st Street.

Mr. Cuthbertson stated for the record that the applicant originally requested a special exception to modify the height of a fence in the required front yard, and that request was withdrawn by the applicant.

Mr. Henke recused himself, out at 1:11 p.m.

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, Oklahoma, stated that during the construction of the residence there were several neighbors who had concerns about the project. Development Services re-inspected the project. As a part of that the Fire Department requested that the driveway going to this house be wide enough to accommodate emergency vehicles. As shown on the plan (Exhibit B-1), the 24.5 ft. to 20 ft. wide driveway will comply with that request. Mr. Reynolds stated that the hardship is the unusual shape of the lot and the request for emergency vehicles to be able to access the lot.

Comments and Questions:

Mr. Cuthbertson pointed out the width of the lot at the required front yard is 30 ft. and the paving covers more than 25% on this lot because the front yard is only 30 ft. x 35 ft. Ms. Stead stated this variance was self-imposed. Mr. Reynolds replied that they purchased the lots this way and they are accommodating the request of the Fire Department. He stated this is a unique situation, as they had proposed a narrower driveway, but Development Services insisted on a width to accommodate emergency vehicles. Mr. Cuthbertson clarified that this is the center property and the front yard is only 35 ft. deep, therefore the required front is only 30 ft. wide by 35 ft. deep but that is due to the irregular shape; any driveway in this required front yard will exceed the code requirement.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 4-0-1 (White, Van De Wiele, Stead, Tidwell "aye"; no "nays"; Henke "abstained"; no "absences") to **APPROVE** a 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), per plan as shown on page 4.7 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, on the following described property:

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

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Case No. 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); ~~a Special Exception to modify the height of a fence in the required front yard from 4' to 8' (Section 240.B.3);~~ and a Variance of the rear yard requirement from 25 ft. to 21' - 10" (Section 403), located: 2814 East 31st Street South.

Mr. Cuthbertson stated for the record that the applicant originally requested a special exception to modify the height of a fence in the required front yard, and that request was withdrawn by the applicant.

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, Oklahoma, stated there is a pool house that was built exactly on the location as it was permitted (Exhibit C-1). There was some confusion as to whether it should have been interpreted as a detached or attached structure. The applicant filed for a variance for the reduction of a required rear yard from 25 ft. to 21.10 ft. He submitted an exhibit to show the pool house, the spacing between it and the existing house, and the rear property line. Mr. Reynolds stated that the southern house that is part of this mini-development is the only house affected by this issue. He showed a photograph (Exhibit C-2) to show the distance to the next house. He gave the hardship as the interpretation of the code and the unique configuration of the lot. Mr. Reynolds stated the variance of the maximum parking area coverage was requested after Development Services reviewed the plans and preferred that the applicant decrease the number of access points on 31st Street for the three adjacent properties from three to one common access point. To drive cars from the garage to the common access point, they would need to pave about 45% of the required front yard (Exhibit C-3).

Interested Parties:

Robert Morton, 3114 South Delaware Place, Tulsa, Oklahoma, 74105, stated that with that much concrete it could make it look like a storage facility. He asked if

there was any way to decrease the amount of concrete to provide an added buffer on the third property.

Comments and Questions:

Mr. Cuthbertson responded that the western lot is undeveloped and could be redesigned so that the garage does not face 31st Street. Mr. Alberty commented that placing a restriction on a property that is not before the Board would not be possible.

Mr. Morton was recognized by the Board again. Mr. Morton pointed out that Delaware Place is a full cul-de-sac, not a driveway as in this case.

Mr. Reynolds did not have any rebuttal.

Mr. Van De Wiele noted the driveway on pages 5.7 and 5.8 were different, and wanted to know which one the applicant wanted the Board to approve, to which Mr. Reynolds replied page 5.7.

Board Action:

On **Motion of White**, the Board voted 4-0-1 (White, Van De Wiele, Stead, Tidwell "aye"; no "nays"; Henke "abstained"; no "absences") to **APPROVE** a 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);~~ finding the hardship to be caused by the requirement from Traffic Engineering that the driveway be routed in such a manner that it occupies more than 25% of the front yard, per plan on page 5.7 of the agenda packet; and to **APPROVE** a Variance of the rear yard requirement from 25 ft. to 21' - 10" (Section 403); finding the configuration of the lot and the confusion as to whether this was a detached or attached structure, per plan as shown on page 5.8 of the agenda packet, that the structure is permitted to be closer than 25 ft. by the detached structure definition, 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:

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 1:33 p.m.

NEW APPLICATIONS

Case No. 20965

Action Requested:

Special Exception to permit off-street parking on a lot not containing the principal use (Section 1301) or in the alternative a Variance of the parking requirement from 14 to 9 (Section 1211.D); and a Special Exception to increase the Floor Area Ratio permitted in the OL district from .30 to .40 (Section 601); all to permit an addition to an existing office use, located: 1809 East 15th Street South.

Presentation:

Walter Tempenski, 3220 South Peoria, Tulsa, Oklahoma, 74105, stated this property was previously a residence and then was rezoned OL. There is an existing two-story building with a detached accessory building both containing office use. They proposed to renovate the existing portion of the rear office building with additional square footage and parking at the rear of the property. The hardship is the narrow lot. The access to the parking on the west side of the lot is shared by the adjacent property. He added that they also share parking. Mr. Tempenski stated they proposed to add another parking space in the front.

Comments and Questions:

Mr. White noted that staff calculated the submitted information demonstrating an increase only to .342 Floor Area Ratio. Mr. Tempenski replied they asked for a little more floor area in case they needed it.

Interested Parties:

Jennifer Gibbons, 1805 East 15th Street, Tulsa, Oklahoma, 74104, stated she owns the building on the west of the subject property. She stated there was a gentleman's agreement when she bought her building ten years ago. She was concerned that more cars using her narrow driveway would not work well.

Comments and Questions:

After some discussion among the Board members it appeared favorable to continue the application to a future meeting. Mr. Boulden clarified that the applicant and the interested party would negotiate mutual access easements with legal documents filed of record.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Van De Wiele, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20965 to the meeting on October 13, 2009, on the following described property:

LT 13 BLK 3, TERRACE DRIVE ADDN SUB PRT B5, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20966

Action Requested:

Minor Special Exception to amend a previously approved site plan for an existing church, located: 1003 North 129th East Avenue.

Presentation:

Jim Beach, 200 East Brady, Tulsa, Oklahoma, with Wallace Engineering, stated this is a small portion of the Church on the Move property. The site plan was designated (Exhibit D-1). He informed the Board they are filling in a gap between two existing buildings. To avoid any inconsistency of the master site plan, they brought this case before the Board.

Interested Parties:

There were no interested parties.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Van De Wiele, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Minor Special Exception to amend a previously approved site plan for an existing church, per plan as shown on page 7.7 in the agenda packet; and the Board sites this approval is consistent with the intent in the previous approvals; and in granting the special exception the Board finds 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 1 BLK 1, LT 2 BLK 1, CHURCH ON THE MOVE, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20967

Action Requested:

Variance to permit an outdoor advertising sign outside of a freeway sign corridor (Section 1221.F.1), located: 9955 East 21st Street South.

Presentation:

Pete Patel, 9502 South 73rd East Avenue, stated they have daily problems with customers that cannot locate the Comfort Suites on the subject property. He has obtained an agreement with the owner of Dean's RV, to allow them to put a sign for Comfort Suites on the Dean's RV property. He contacted Amax Signs for help to obtain a sign that would be approved.

Brian Ward, 9520 East 55th Place, Tulsa, Oklahoma, 74145, with Amax Signs, stated that Comfort Suites and Dean's RV came to an agreement for a shared sign

structure for the two businesses. It meets all of the requirements for an on-premise sign.

Comments and Questions:

Ms. Stead stated that she recognized the need for the sign. She confirmed that this is not an LED sign or digitally enhanced. Mr. Ward explained the technology of the sign construction, and added that it is back-lighted but not an LED sign.

Mr. Boulden stated according to Section 1607.A. of the zoning code that the Board shall not permit by variance a principle use not otherwise permitted in the applicable district, it being the expressed spirit and intent of this Code that a change of the permitted principal use shall be made by ordinance amendment of the Zoning Code. He stated that Section 1221 talks about outdoor advertising signs being allowed in CS districts, but only when it is in a freeway corridor. Mr. Boulden advised the Board they did not have the authority to grant this request.

Mr. Ward asked if there was a way to distinguish the difference in an outdoor advertising structure and an off-premise sign. Mr. Cuthbertson asked if they could have a continuance for more discussion before the Board takes action.

Interested Parties:

There were no interested parties.

Board Action:

On **Motion of White**, the Board voted 5-0-0 (White, Van De Wiele, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20967 to the meeting on September 22, 2009, on the following described property:

LTS 1 & 2 LESS W447.79 LT 1 BLK 2, MAGIC CIRCLE SOUTH ADDN, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 1:56 p.m.

Date approved: 9/22/09


Chair