

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1014
Tuesday, November 24, 2009, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

**MEMBERS
PRESENT**

Stead, Vice Chair
Tidwell, Secretary
Van De Wiele
White

**MEMBERS
ABSENT**

Henke, Chair

**STAFF
PRESENT**

Butler
Cuthbertson

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, November 18, 2009, at 10:02 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Vice Chair Stead called the meeting to order at 1:01 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, Van De Wiele "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** the Minutes of November 10, 2009 (No. 1013)

NEW APPLICATIONS

Case No. 20997

Action Requested:

Special Exception to allow for an industrial waste water treatment facility (Use Unit 2) in and IL district (Section 901), located: 2131 South Rosedale Avenue West.

Presentation:

Tim Taylor, 2120 Southwest Boulevard, Tulsa, Oklahoma, 74107, requests the special exception for a waste water treatment facility. They currently operate under an industrial discharge permit from the City of Tulsa. He submitted copies of necessary permits (Exhibit A-1) related to the existing waste water treatment facility to the Board. He gave a brief explanation of the collection and treatment process. The hours of operation are from 7:00 a.m. to 3:30 p.m., Monday through Friday. They operate their own trucks to provide service in Tulsa, and as far away as Siloam Springs and Oklahoma City. They treat approximately up to 200,000 gallons of water per month. All operations related to the use are conducted inside the existing building on the subject property.

Comments and Questions:

In response to questions from the Board, Mr. Taylor stated they do a batch discharge once per week. Twice per year the City of Tulsa monitors their water to make sure they are following all of the guidelines within the permit. They transport some water in barrels, as well as the tank trucks. All unloading and storage is inside. All parking and driving surfaces are concrete. They decided to make the change from an industrial discharge permit to an industrial waste water permit and discovered there was not an occupancy permit on the building. This request is to obtain that permit.

Interested Parties:

There were no interested parties.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Special Exception to allow for an industrial waste water treatment facility (Use Unit 2) in an IL district (Section 901), with a condition for all city, county, state and federal permits to be kept current, 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:

LTS 5 & 6 & N10 VAC ALLEY ADJ BLK 4, CLINTON ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20999

Action Requested:

Special Exception to permit trade school use (Use Unit 15) in the CS district (Section 701), located: Southwest corner of East 21st Street and South 145th East Avenue.

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, Oklahoma, stated his client is redeveloping the Eastland Mall location. The trade school would lease about 80,000 square feet. The primary course of study is welding. They also offer secondary accredited degrees in heating, ventilating and air-conditioning. In this type of school the curriculum is very flexible. They reflect the needs of the market. He informed the Board everything will be inside. It will be totally separate from the rest of the mall with a two-hour firewall separation. They will have a separate sprinkler system, air-exchange, and electrical system. The school will be limited to a certain quantity of a non-hazardous gas otherwise they could not be in a commercial area.

Comments and Questions:

Ms. Stead was concerned about a request for a trade school of unknown trades. Mr. Reynolds explained that the danger of the particular activities, using non-hazardous gases is covered under the building code. He added that they expect enrollment to be primarily high school graduates, most of who would be from outside the City of Tulsa. He mentioned that having apartments on either side of the subject property is an advantage. They have about a 100% employment rate with current students. Ms. Stead asked Mr. Boulden what protection is provided that no hazardous industry would be placed here. Mr. Boulden could not list specific protections but suggested the Board can set conditions on what is allowed. Mr. White stated the fire and building codes would control the activities. Mr. Reynolds indicated the school would have the option in the lease to expand. All of their spaces would have a two-hour fire wall. Ms. Stead asked if this application was approved would it include the proposed additional space. Mr. Boulden replied that it would include the additional space as indicated on the site plan.

Interested Parties:

City Councilor Dennis Troyer, District 6, 12811 East 13th Place, Tulsa, Oklahoma, 74120, expressed support, expecting it will bring prosperity to the surrounding area and expanded opportunities.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Special Exception to permit trade school use (Use Unit 15) in the CS district (Section 701), with conditions for no outside storage or activity around the building; and that they conform to the City of Tulsa building and fire codes; 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 1 BLK 1, EASTLAND ACRES, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 21000

Action Requested:

Variance to allow a swimming pool in the required front yard (Section 210.B.6), located: 1601 East 36th Court South.

Presentation:

Brett Biery, 1601 East 36th Court South, Tulsa, Oklahoma, came to answer any questions. The site plan was submitted (Exhibit C-1).

Comments and Questions:

Ms. Stead stated the previous owner selected the north side of property as the front yard. She asked about placement of the pool closer to the hot tub on the site plan. Mr. Biery replied that the hot tub does not exist. She asked why they did not plan to put the pool in that general area. He responded that the space would be too crowded. He mentioned the utility easement east of that location. He added that they planned for an in-ground pool. He reviewed the history of the two lots, comprising the subject property with one house built over both lots. He informed the Board that all of the neighbors around his property were in support (Exhibit C-2) and signed letters.

Interested Parties:

Eric Graham, 1620 East 36th Court, 74105, Tulsa, Oklahoma, 74105, was concerned about setting a precedent for structures in the front yard in this neighborhood. He also did not want to have to deal with dirt, equipment or other obstructions in the street.

George Kendall, 1634 East 36th Court, Tulsa, Oklahoma, 74105, stated his main concern was the type of fencing around the pool.

Applicant's Rebuttal:

Mr. Biery responded to comments that he planned to keep the existing wrought iron and brick column fencing, with landscaping for privacy. He would add nylon-type mesh to the wrought iron bars if necessary. The gates would be locked. They have a landscape architect that is designing landscaping for them. It was discussed that there are no other properties in the surrounding neighborhood shaped and developed in a manner similar to the subject property. He was also discussed that the permit office made the current determination based solely on the existing house's setbacks.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Variance to allow a swimming pool in the required front yard (Section 210.B.6), per conceptual plan as shown on page 4.6 of the agenda packet; finding this is an unusually shaped lot, and finding the required front yard requirements are met on the south side of the property; 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:

LOT 1 & 6 BLK 7, WOODLAND HGTS, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 21001

Action Requested:

Variance of the parking requirement for an office use from a previously reduced 201 spaces to 187 spaces existing (Section 1211); and an Amendment to a previously approved site plan (BOA-18484), located: 2250 East 73rd Street South.

Presentation:

Roy Johnsen, One West 3rd Street, Suite 1010, Tulsa, Oklahoma, 74103, stated the initial PUD established in 1980, provided for a building with 68,560 sq. ft. They only built 66,300 sq. ft. He submitted a revised site plan (Exhibit D-1) shown in the agenda packet. The ordinance at the time the building was constructed provided for one parking space per 400 sq. ft. of office space. In 1983 the applicant applied for a revision of the plan to add a drive through bank, one with an ATM. It was narrow and at an awkward angle. They have made a substantial remodel with three wider lanes and a separate drive on the outside lane for the ATM. He added that using the current standards today, 204 parking spaces would be required. This would be an 8.3% reduction of required parking. The exterior lane for the ATM took away ten parking spaces. There are four spaces that are not striped on the northwest side of the site but they would prefer not to stripe them. In a survey of the parking they found that less than one-half of the spaces were in use at any one time. He stated that if a medical development was added it would increase the parking requirement and require additional relief from the Board.

Comments and Questions:

Ms. Stead asked for an explanation of the discrepancy of the number of required parking spaces in the code compared to the applicant's numbers. Mr. Cuthbertson stated he had overlooked a part of the parking requirement for office buildings over 30,000 sq. ft. Mr. Johnsen added that 201 parking spaces were approved the last time this property came before the Board.

Interested Parties:

There were no interested parties.

Board Action:

On **Motion** of **Van De Wiele**, the Board voted 4-0-0 (White, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Variance of the parking requirement for an office use from a previously reduced 201 spaces to 187 spaces existing (Section 1211); and an Amendment to a previously approved site plan (BOA-18484), finding the uniqueness and use of the property the number of spaces at 187 are adequate for the property; with the condition if the use changed to medical use the owner would need more relief for parking, per plan 5.5 as shown in the agenda packet with the exception of the gross building square footage, which is 66,300 sq. ft., rather than a net of 68,560 sq. ft.; 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 2 LESS E50 THEREOF BLK 9, KENSINGTON, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 21002

Action Requested:

Variance of the rear yard requirement from 25 ft. to 19 ft. - 3 in. to allow for an addition in an RS-1 district (Section 403), located: 3141 East 47th Street South.

Presentation:

Jeremy Perkins, 1244 East 25th Street, Tulsa, Oklahoma, 74114, stated his client proposed to build an addition to his home (Exhibit E-1), including two bedrooms and a bath.

Interested Parties:

There were no interested parties.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Variance of the rear yard requirement from 25 ft. to 19 ft. - 3 in. to allow for an addition in an RS-1 district (Section 403), finding this to be a corner lot, and is compatible with the surrounding neighborhood, and the existing house on the west portion also extends closer than the required rear yard setback; per plan as shown on page 6.6 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:

S110 OF E155 OF LT 7, CLAYPOOL, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 21003

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: 8005 South Sheridan Road.

Presentation:

Todd Hensley, 4622 South Columbia, Tulsa, Oklahoma, 74105, provided verification of spacing at Square One Shopping Center.

Interested Parties:

There were no interested parties.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions"; Henke "absent") to **ACCEPT** a 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), based upon the facts in this matter as they presently exist, 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:

PRT LT 1 BEG NWC TH E390.32 S536.68 W215.59 N175 W175 N361.68 POB LESS S8 W162.98 THEREOF FOR ST BLK 1, SQUARE ONE, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 21004

Action Requested:

Special Exception to permit a single family dwelling (Use Unit 6) in an OM district (Section 601), located: 1617 South Denver Avenue.

Presentation:

Regina Striplin, 24637 South Wells Ranch Road, Claremore, Oklahoma, 74019, stated she is the realtor for the applicant. He proposed to use this OM property as his primary residence. He will use the accessory building for personal storage. There are a total of three parking spaces on the property. There is no garage.

Comments and Questions:

Mr. White asked if the OM zoning with residential usage alters the parking requirements. Mr. Cuthbertson replied that as a residential use, which is less intense, it requires less parking. If the use changes back to OM the parking requirements would change.

Interested Parties:

Ann Pollard, 1401 South Carson Avenue, Tulsa, Oklahoma, 74119, stated the previous owner obtained OM zoning but used the property for his residence also.

Board Action:

On **Motion of White**, the Board voted 4-0-0 (White, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Special Exception to permit a single family dwelling (Use Unit 6) in an OM district (Section 601), 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 12 BK 6, STONEBRAKER HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20971-A

Action Requested:

Variance of the 25 ft. building setback requirement for a community center/ neighborhood pool (Use Unit 5) use from an abutting R zoned property to the north to 11 ft. (Section 404.F.4); a Variance of the screening requirement for a parking lot containing more than 6 parking spaces from an abutting R district on the north side of the subject property (Section 1303.E); and a Variance of the setback requirement for a non-residential parking lot in the R district from the centerline of the abutting street from 50 ft. to 25 ft. (Section 1302.B), located: 4707 South 185th East Avenue.

Presentation:

Dwight Claxton, 4404 East 111th Street, Tulsa, Oklahoma, was present for questions.

Comments and Questions:

Ms. Stead asked if the required screening overlooks a pond. Mr. Claxton replied that the screening on the north side of the parking lot overlooks an R-zoned pond. The nearest house that would be built would be 180 ft. from the parking lot. Mr. Cuthbertson asked for clarification that he was presenting the same site plan (Exhibit F-1) as previously approved by the Board. Mr. Claxton affirmed it was the same site plan.

Interested Parties:

There were no interested parties.

Board Action:

On **Motion of Van De Wiele**, the Board voted 4-0-0 (White, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions"; Henke "absent") to **APPROVE** a Variance of the 25 ft. building setback requirement for a community center/ neighborhood pool (Use Unit 5) use from an abutting R zoned property to the north to 11 ft. (Section 404.F.4); a Variance of the screening requirement for a parking lot containing more than 6 parking spaces from an abutting R district on the north side of the subject property (Section 1303.E); and a Variance of the setback requirement for a non-residential parking lot in the R district from the centerline of the abutting street from 50 ft. to 25 ft. (Section 1302.B), finding the property abuts the retention pond and the screening is not required; per plan as shown on page 9.5; 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 variances 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:

Reserve Area A, Stonegate II, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 21009

Action Requested:

Minor Special Exception to reduce the required front yard in the RS-1 district from 35 ft. to 33 ft. (Section 403); and a Minor Variance of the required 10 ft. side yard in the RS-1 district to 8.7 ft. (Section 403); to permit the existing dwelling, located: 1767 East 31st Street South.

Mr. White abstained from Case No. 21009.

Presentation:

Shelly Brady, 1767 East 31st Street, Tulsa, Oklahoma, 74105, agreed to approval based on staff comments and per the plan she submitted (Exhibit G-1).

Interested Parties:

There were no interested parties.

Board Action:

On **Motion of Van De Wiele**, the Board voted 3-0-1 (Stead, Tidwell, Van De Wiele "aye"; no "nays"; White "abstained"; Henke "absent") to **APPROVE** a Minor Special Exception to reduce the required front yard in the RS-1 district from 35 ft. to 33 ft. (Section 403); and a Minor Variance of the required 10 ft. side yard in the RS-1 district to 8.7 ft. (Section 403), to permit the existing dwelling, per plan as shown on page 10.7, 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; and 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 23 BLK 18, FOREST HILLS, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20989

Action Requested:

Variance of the maximum permitted display surface area for ground signs in the CS district from 292.43 sq. ft. to 398 sq. ft. (Section 1221.D.3); and a Variance of the maximum number of signs permitted in the CS district from 2 to 3 signs (Section 1221.C.8), located: Northwest corner of East 41st Street and South Hudson Avenue.

Presentation:

Mr. Cuthbertson stated this application is not complete. The applicant has yet to execute all his required administrative duties. It was partially advertised but the applicant has not followed up. He requested that it be denied without prejudice.

Interested Parties:

There were no interested parties.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions"; Henke "absent") to **DENY** a Variance of the maximum permitted display surface area for ground signs in the CS district from 292.43 sq. ft. to 398 sq. ft. (Section 1221.D.3); and a Variance of the maximum number of signs permitted in the CS district from 2 to 3 signs (Section 1221.C.8), without prejudice, on the following described property:

BEG 50N SECR SW TH W266.44 N260 E291.58 S260 W25 POB & TR BEG 310N & 55W SECR SW TH N2 W66.50 S2 E66.50 POB SEC 22 19 13, City of Tulsa, Tulsa County, State of Oklahoma

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OTHER BUSINESS

Approval of Revised 2010 Board of Adjustment Meeting Schedule

Presentation:

Mr. Cuthbertson introduced a revised 2010 Board of Adjustment Meeting Schedule that would reduce the calendar from two meetings a month to one meeting a month. This is the product of budget considerations. There is a concern about continued budget shortages and our ability to manage two meetings a month, in addition to the multiple other public meetings that we have to staff and manage.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions"; Henke "absent") to **CONTINUE** this revised meeting schedule to the meeting on December 8, 2009 for more consideration.

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There being no further business, the meeting adjourned at 2:38 p.m.

Date approved: 12/8/09


Chair

