

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1015
Tuesday, December 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
White

**MEMBERS
ABSENT**

Van De Wiele

**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, December 2, 2009, at 11:47 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 1:00 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, Henke, Stead, Tidwell, "aye"; no "nays"; no "abstentions"; Van De Wiele "absent") to **APPROVE** the Minutes of November 24, 2009 (No.1014)

UNFINISHED BUSINESS

Case No. 20984

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 AG district (Section 302.B.2); a Variance of the maximum permitted height of a sign in the AG district from 20 ft. to 21 ft. – 7 in. (Section 302.B.2.b); and a Variance of the maximum display

surface area permitted for a sign in the AG district from 150 sq. ft. to 275 sq. ft. (Section 302.B.2.b), located: 12000 East 31st Street.

Presentation:

Richard Craig, 1889 North 105th East Avenue, Tulsa, Oklahoma, referred to an excerpt from a leadership magazine that Ms. Garrett sent to the Board of Adjustment. The organization indicated they were originally a church and searched for ways to reach the community with the gospel. The community became multi-cultural with several ethnic groups living in the area. When the congregation diminished from 2,000 to about 500, they decided to open the doors to more activities to serve the community. The size of the building is 105,000 sq. ft. on 35 acres. Twenty-four tenants now occupy space in this facility, including churches, and schools. The sign design has been revised and reduced to 219.92 sq. ft. of display surface area to identify the tenants including an LED message board of 25 sq. ft. When there are multiple events on one night they would want to advertise them both. He compared this request with the signage for Grace Church and Christian School, near Garnett Road and the Creek Turnpike. Photographs were provided to the Board (Exhibit A-1).

Comments and Questions:

Ms. Stead questioned if an event center can be located on AG property without rezoning or some other action. Mr. Henke thought there was a question at the last meeting as to whether an event center had been approved for this property. Mr. Craig noted that the article stated it became an event center in 2006. Mr. White stated to have a Use Unit 5 in an AG district, it requires a special exception. Mr. Boulden stated that is an issue for Code Enforcement. The topic in this case is the sign. The bulletin board signs are allowed for educational, religious, and institutional facilities to announce activities. The relief requested is from this provision and is somewhat relevant. Mr. Alberty suggested if the Board was concerned about the event center being an unapproved use, to remember that is a code enforcement issue. The request for variances is appropriate for the signage. Mr. Henke stated his concern is the intensity of this sign as it relates to the zoning of this property and the surrounding area.

Interested Parties:

Tim Schweikhard, 14363 South 321st, Coweta, Oklahoma, the Executive Director of the church, suggested they could remove the word event from the sign. The tenants are churches and educational facilities, both of which are in the original approval when the land was purchased.

Comments and Questions:

The Board was divided on an action for this application. Ms. Stead informed the applicant that a vote at this meeting would mean a denial. She suggested a continuance to allow the applicant to go to code enforcement for a review of the usage of the property. Mr. Alberty informed the applicant he could request a zoning clearance permit from a zoning officer at the City of Tulsa. Mr.

Schweikhard asked for clarification of the Board's concern regarding the sign. Ms. Stead responded that the size is a concern and that it is a foot taller in height. Another concern is related to the compatibility of the sign's design with the subject property and surrounding area's zoning designation. The applicant responded they have lowered the size and the height and no longer need the variance for the height.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell, "aye"; no "nays"; no "abstentions"; Van De Wiele "absent") to **CONTINUE** Case No. 20984 to the meeting on January 12, 2010, regarding the following described property:

NE NW LESS BEG SWC NE NW TH N315 SE182.47 SE93.88SE193.49 W330
POB & LESS BEG 50S NEC NE NW TH S1269.23 W377 N450 E337 N819.25
E40 POB & LESS N50 FOR ST SEC 20 19 14, City of Tulsa, Tulsa County, State
of Oklahoma

NEW APPLICATIONS

Case No. 21005

Action Requested:

Amendment to a condition of a previously approved Special Exception to change the limitation of Trade School use from an "automotive technical school" to permit general Use Unit 15 "trade school" uses in a CS district, located: 4444 South Sheridan Road.

Prior to hearing this application Mr. Henke offered any applicants who wanted to continue their application to the next hearing for a full Board decision to let it be known.

Presentation:

Tim Boeckman, 1401 South Denver Avenue, Tulsa, Oklahoma, architect for the existing trade school. The owner wants the amendment to broaden the variety of school programs offered on the subject property. One-third of their space is currently unoccupied.

Comments and Questions:

Ms. Stead asked why the applicant has not complied with the Board's previous conditions, made over one year ago.

The owner, **Ivan Acosta**, 4752 East 102nd Street, Tulsa, Oklahoma, responded that the privacy fence was in construction. He informed the Board that some of the cars that were parked outside were being worked on by the students. They work

on the cars inside as part of their training and then park them outside. They do not have enough room inside the shop to store cars and train the students. They have a contract for old tires that are stacked outside to be picked up every three days. Ms. Stead wanted to know that the applicant has complied with the previous conditions before approval of any more relief.

Interested Parties:

There were no interested parties.

Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell, "aye"; no "nays"; no "abstentions"; Van De Wiele "absent") to **CONTINUE** Case No. 21005 to the meeting on January 12, 2010, on the following described property:

LT 1 LESS BEG 356.91W NEC TH W386.44 S11 E386.44 N11 POB BLK 1,
Neiman-Nassif Plaza, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 21006

Action Requested:

Variance of the minimum frontage required on an arterial street in the CS district from 150 ft. to 54 ft. (Section 703), located: 2197 South Sheridan Road.

Presentation:

Mr. Cuthbertson informed the Board this case was withdrawn.

Board Action:

No decision was needed regarding Case No. 21006, regarding the following described property:

LTS 1 2 & W30.72 LT 3 BLK 1 & LTS 1 2 & W30.46 LT3 BLK 2 & 60 OF VAC
22ND ST ADJ TO BLKS 1 & 2, COZY ACRES, City of Tulsa, Tulsa County, State
of Oklahoma

Case No. 21007

Action Requested:

Variance of the parking requirement for a multi-tenant commercial building in the CG district from 50 spaces to the existing 26 parking spaces (Section 1200), located: 3309 South Harvard Avenue.

Presentation:

Janet Jalili, 2404 Terrace Drive, Bartlesville, Oklahoma, submitted some photographs (Exhibit C-3). She stated that the owner of the property, Robert Aery,

obtained a mutual access easement, providing five more parking spaces for her business (Exhibit C-1). She proposed to open a ladies gymnasium with 5,600 sq. ft., open 6:00 a.m. to 9:00 p.m. or 10:00 p.m. She submitted a petition of support with signatures of the businesses most impacted by the parking (Exhibit C-2). She also sent a letter to all of the businesses to which INCOG sent notices. She received two phone calls from businesses on the INCOG notice list, stating they did not see any problem with the parking. Ms. Jalili estimated a maximum of 28 customers and employees parking during the day, and 35 maximum during peak hours before 9:00 a.m. and after 5:00 p.m. She added there are 43 shared parking spaces, and she would have 26 designated for her business.

Interested Parties:

There were no interested parties present.

Board Action:

On **Motion of Stead**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell, "aye"; no "nays"; no "abstentions"; Van De Wiele "absent") to **APPROVE** a Variance of the parking requirement for a multi-tenant commercial building in the CG district from 50 spaces to the existing 26 parking spaces (Section 1200), finding a mutual access easement on the western driveway has been established, and should provide adequate parking in the area; 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:

N75 W140 E165 LT 24, S75 N150 W140 E165 LT 24, ALBERT PIKE SUB, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 21008

Action Requested:

Variance of the parking requirement for a multi-tenant commercial building in the CS district from 66 spaces to the existing 25 parking spaces (Section 1200), located: 6533 East 51st Street South.

Presentation:

Mike Ives, 1530 South Yorktown Place, Tulsa, Oklahoma, stated his company is a commercial real estate firm that has managed this property for about nine years. He reviewed some of the history of long term leases in this building. They do not propose any dine-in restaurant use because of the limited parking. They applied for this relief for a Little Caesar's delivery business on construction build-out. Mr.

Ives expected the hours of operation of Paradise Donuts 6:00 a.m. to 11:00 a.m. to trade off with the Little Caesar's hours of 11:00 a.m. to 11:00 p.m. They have experienced no previous parking problems. He submitted a petition of support for the lease approval (Exhibit D-1).

Comments and Questions:

Ms. Stead did not see any problem with the parking at this site.

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, Stead, Tidwell, "aye"; no "nays"; no "abstentions"; Van De Wiele "absent") to **APPROVE** a Variance of the parking requirement for a multi-tenant commercial building in the CS district from 66 spaces to the existing 25 parking spaces (Section 1200), finding the demonstrated usage of this commercial building has been such that the 25 existing parking spaces has been adequate for the tenants that have utilized it and the projected use will work within the 25 parking spaces; 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:

E 30 LT 6 & ALL LT 7 BLK 1, F D M CENTER, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 21011

Action Requested:

Verification of the spacing requirement for an adult entertainment establishment (Use Unit 12a) from an R district, church, school, or park (Section 1212a.C.3), located: 304 South Elgin Avenue.

Presentation:

Kevin Hale, 419 South Peoria, Tulsa, Oklahoma, 74120, represented the applicant. The only establishment that might come up as being within the spacing radius is the Caring Center, belonging to the First Baptist Church. He stated that under Section 1212.A, it does not meet the description as a contiguous property owned by a church. It was stated that the Caring Center did not meet the definition for a place of worship.

Interested Parties:

There were no interested parties present.

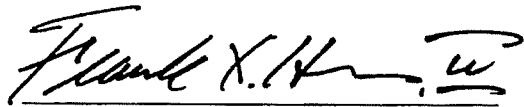
Board Action:

On **Motion** of **White**, the Board voted 4-0-0 (White, Henke, Stead, Tidwell, "aye"; no "nays"; no "abstentions"; Van De Wiele "absent") to **ACCEPT** the Verification of the spacing requirement for an adult entertainment establishment (Use Unit 12a) from an R district, church, school, or park (Section 1212a.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:

S55.5 E70.54 LT 1 BLK 116, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 2:08 p.m.

Date approved: 1/12/10



Chair