

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1072
Tuesday, June 12, 2012, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Henke, Chair Stead Tidwell, Secretary Van De Wiele	White, Vice Chair	Alberty Back Sparger	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, June 7, 2012, at 9:36 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.

Ms. Back read the rules and procedures for the Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **TIDWELL**, the Board voted 4-0-0 (Henke, Stead, Tidwell, Van De Wiele, "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the **Minutes** of the May 22, 2012 Board of Adjustment meeting (No. 1071).

UNFINISHED BUSINESS

None.

NEW BUSINESS

21429—Brandon Moydell

Action Requested:

Variance of the constant light requirement for a sign in an RS District; Variance to increase the permitted display surface area for a sign in an RS district from 32 square feet to 70 square feet. **LOCATION:** 1402 South Memorial Drive (CD 5)

Presentation:

Brandon Moydell, Oil Capital Neon, 4419 West 55th Place, Tulsa, OK; stated the constant light request is for a bulletin board type sign. The proposed bulletin board, or LED message center, is well outside the 200'-0" residential line of site as required by the zoning code. The proposed sign is sandwiched by commercially zoned properties on all sides, and there are commercial signs all around this proposed sign site. The hardship for this property is the zoning itself, because the only interested parties in the residential district are the people requesting the variance.

Ms. Stead asked Mr. Moydell if the proposed sign was 20'-0" west of the curb. Mr. Moydell stated the sign is at the minimum setback required by the code.

Mr. Moydell stated there is another issue concerning the display area that is limited to 2/10 of a square foot per lineal foot of street frontage. Mr. Moydell is proposing to exceed from 33 square feet, based on a 165'-0" street frontage, up to 45 square feet. It is for an identification board that is not supposed to be in excess of 32 square feet. The proposal is for an area of 4'-6" x 10'-0" for the upper section of the sign.

Mr. Henke stated that the issued had been addressed in the hardship statement. Ms. Stead stated the actual variance request is for a permitted display surface area, from 32 square feet to 70 square feet which is in excess of what is being asked for. Mr. Moydell stated that the letter of denial that was received from the City of Tulsa actually separates the subject sign into two signs; one being a bulletin board and the other being identification sign. The City of Tulsa letter of denial actually calls that a 45 square foot identification sign on top with a 30 square foot LED message center that has been discussed.

Ms. Stead asked Mr. Alberty to give some clarification to this situation. Mr. Alberty stated that the sign adds up to 75 square feet by the dimensions in the letter of denial. This case has been advertised for 70 square feet, so if the Board approves this request the sign will need to be revised. The sign separation made by the City will need to be discussed with the Permitting office. All the Board has the authority to do today is grant the relief that was advertised for in this case.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, Van De Wiele, “aye”; no “nays”; no “abstentions”; White absent) to **APPROVE** the request for a **Variance** of the constant light requirement for a sign in an RS District; **Variance** to increase the permitted display surface area for a sign in an RS district from 32 square feet to 70 square feet. This is subject to the conditions that there shall be no scrolling except from right to left. In other words no rolling, nothing upside down, no flashing or blinking messages. The height limit, as shown by the revised sign submitted today, is limited to 20’-0”. This is also subject to applicable provisions in Section 1221.C.2. The Board finds that all property, literally all property, around the sign is commercial property and it would be a hardship to deny this application based on the code. The Board finds that the sign is 62’-0” from the centerline of Memorial, as shown on page 2.9. In granting these variances the Board has found that 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; for the following property:

N/2 N/2 SE SE NE LESS W30 & E33 FOR STS SEC 11 19 13 2.261ACS, KEIM ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21430—Gloria Ponce Deleon Esparza

Action Requested:

Variance of the maximum allowed square footage for a detached accessory building in the RS-3 zone from 598 square feet to 1,590 square feet to construct a new detached garage with storage (Section 402.B.1.d). **LOCATION:** 1651 North Xanthus Avenue (CD 1)

Presentation:

Gloria Ponce Deleon Esparza, 1651 North Xanthus Avenue, Tulsa, OK; stated she would like to build this detached garage to store yard equipment and other items.

Ms. Stead asked if the existing metal pole carport that is wrapped in polyurethane will be removed. Ms. Esparza stated that once the new building is complete it will be removed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, Van De Wiele “aye”; no “nays”; no “abstentions”; White absent) to **APPROVE** the request for a **Variance** of the maximum allowed square footage for a detached accessory building in the RS-3 zone from 598 square feet to 1,590 square feet to construct a new detached garage with storage (Section 402.B.1.d). The Board makes the requirement that nothing furnishing the new space will constitute living quarters. The building shall be used for storage only, never for rental or commercial use. This is subject to conceptual plan on page 3.7, knowing that the silt fence is a construction fence and will be removed. The metal carport wrapped in a polyurethane covering is to be removed after completion of the new detached accessory building. This property which contains over 20,000 square feet will, even with the improved building, contain adequate green space. In granting this variance there are 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; for the following property:

LT 26 BLK 2, CONSERVATION ACRES SUB, KINLOCH PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21431—Sign Productions/Stacey Meyer

Action Requested:

Variance to allow more than one identification sign in an AG district (Section 302.B.2.b); **Variance** of the maximum display surface area from 150 square feet to permit additional signs (Section 302.B.2.b); **Variance** to allow for wall signs in an AG district (Section 302.B.2.b). **LOCATION:** 6636 South Mingo Road (**CD 7**)

Presentation:

Wally Ruden, Sign Productions, 500 Wofford Road Southwest, Cedar Rapids, Iowa; stated that Union Public Schools will be expanding by 50%; from 2,000 to 3,000 students with an increase for teaching of 30%. There will be an increase in traffic with the expansion so these signs will be very helpful directional device. There are several signs on the property and he has broken them down into three types of situations. One is the signage along South Mingo Road, which are largely entrance signs designating entrances and exits. There are signs on the building that identify the property as Union Public School, Collegiate Academy main entrance, and Union Public School logo. Thirdly, there are some branding signs that will go on light poles, which are small

aluminum panels that show the Union logo as well. All the signs are non-illuminated, even the one on the building.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, Van De Wiele “aye”; no “nays”; no “abstentions”; White absent) to **APPROVE** the request for a **Variance** to allow more than one identification sign in an AG district (Section 302.B.2.b); **Variance** of the maximum display surface area from 150 square feet to permit additional signs (Section 302.B.2.b); **Variance** to allow for wall signs in an AG district (Section 302.B.2.b). The Board makes these motions to include 15 non-illuminated signs as listed in the Development Services letter of March 26, 2012, which is page 4.11 in the agenda packet. The placement of the signs shall be as shown on page 4.9. The sign designs are to be as per plan as shown on pages 4.14, 4.15, 4.16, and 4.17. The Board has found that this school property containing more than 2 million square feet is a huge campus and that the school population is increasing approximately 50%. The many and varied entrances and exits need directional signage, which this approval should take care of. In granting this variances the Board has found that the size and location of the structured buildings 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; for the following property:

LT 1 BLK 1, UNION HIGH SCHOOL ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21432—Shew’s Top Quality Roofing

Action Requested:

Special Exception to permit carport in the required front yard in an RS-3 district (Section 210.B.10.g); **Variance** of required side yard setback from 5 feet to 4 feet (Section 210.B.10.b); **Variance** of the maximum permitted dimension of a carport located in the required front yard from (20' X 20') to (21' X 28')(Section 210.B.10.a).

LOCATION: 12516 East 38th Street **(CD 6)**

Presentation:

Brian Shew, Shew’s Top Quality Roofing and Guttering, 1244 North Darlington Avenue, Tulsa, OK.

Ms. Stead asked Mr. Shew if he checked the code before building the carport. Mr. Shew stated that he did not check the code because he was not aware there was a code for a carport, because it is not something that is normally performed by his company. Mr. Mills, the homeowner, is a friend from church and when Mr. Mills called Mr. Shew, he and his wife were very sick. Mr. Mills asked Mr. Shew about building a carport because he and his wife were always getting wet, and his wife had contracted pneumonia from getting wet and cold. So Mr. Shew built the carport as a friend, and at no profit to him. Mr. Shew again stated that he was not aware of any codes in place regarding carports. Since the carport has been built Mrs. Mills has passed away, and Mr. Mills is 82 would like to keep the carport.

Ms. Stead stated that any carport in the front yard built in Tulsa, Oklahoma must come through the Board of Adjustment. There is a maximum size and restrictive designs within a loose definition. Any carport must come before the Board of Adjustment or it is subject to being denied. Ms. Stead stated that she cannot support this application.

Mr. Henke stated that the carport is out of character for the neighborhood.

Mr. Van De Wiele stated that he cannot support this application either. He is not necessarily offended by the size because the driveway is a large driveway. But the first thing that caught his eye is there is a metal roof on the carport, and it is totally out of character for the neighborhood. Typically the carports seen by the Board of Adjustment keep in character with the home and are in an area where they are more common.

Mr. Shew asked if the fact that the carport is in a cul-de-sac and does not obstruct the view of any of the neighbors could be a consideration. Mr. Henke stated the workmanship on the carport is very good but the carport is out of character.

Mr. Van De Wiele stated that even though there is no one in the audience to protest the carport does not mean there is no opposition.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **DENY** the request for a **Special Exception** to permit carport in the required front yard in an RS-3 district (Section 210.B.10.g); **Variance** of required side yard setback from 5 feet to 4 feet (Section 210.B.10.b); **Variance** of the maximum permitted dimension of a carport located in the required front yard from (20' X 20') to (21' X 28')(Section 210.B.10.a); finding that this carport is not compatible with the neighborhood and would be injurious to the neighbors; all for the following property:

LT 5 BLK 7, PARK PLAZA EAST II, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21434—Jack Bubenik/City of Tulsa

Action Requested:

Modification to a previously approved site plan (BOA-19340) to permit construction of additional park amenities (Use Unit 5). **LOCATION:** 6502 North Cincinnati Avenue (CD 1)

Presentation:

Jack Bubenik, Landscape Architect, City of Tulsa Parks, 175 East 2nd Street, #570, Tulsa, OK.

Ms. Stead stated that on previous approvals a variance or special exception may have been approved by the Board but it has been subject to funded items. Is that an issue in regards to this park? Mr. Bubenik answered affirmatively. A lot of times plans are approved before funding is in place and this is one of those parks. The park is on a tight construction schedule because of the timing of the CBDG funds. Those funds have not been approved as of yet. Once they are approved the construction must be complete by August 1st. There is a contractor, the bids have been received, everything is going through processing, and the City is waiting for the funding.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the request for a Modification to a previously approved site plan (BOA-19340) to permit construction of additional park amenities for Vining Park (Use Unit 5), subject to conceptual plan on page 6.9. Furthermore, subject to this modification for Vining Park located in an RS-3 district per conceptual plan submitted for funded and unfunded items conceptually approved with no further Board of Adjustment approval required, finding the proposed improvements to be compatible with the neighborhood and with previous approvals; for the following property:

S66 NE NE NE & N/2 SE NE NE LESS E40 THEREOF FOR RD SEC 2 20 12 5.661ACS,NORTHGATE SECOND ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

16206-A—A-MAX Sign Company

Action Requested:

Modification to a previously approved plan (BOA-16206) to permit an update for a wall sign for the Bank of Oklahoma. **LOCATION:** 7060 South Yale Avenue **(CD 8)**

Presentation:

Brian Ward, 9520 East 55th Place, Tulsa, OK; stated that in 1993 he was before the Board of Adjustment requesting a variance to install a 341 square foot wall sign, and after 19 years the sign needs to be changed. A modification to the previously approved variance is being requested to scale the size back by 40 square feet. The previous variance was approved per plan as submitted and now the request is to reduce the sign size with an approval of conceptual plan, if possible.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, Van De Wiele, "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the request for a Modification to a previously approved plan (BOA-16206) to permit an update for a wall sign for the Bank of Oklahoma. This is in accordance with conceptual plan on page 7.14 and 7.15 in the Board's agenda packet. This modification is subject to the removal of the sign if the business is moved to another location or goes out of business. Finding that the depth of the tract and location of the office building is unique, and the signage installed on the building walls are not necessarily visible as should be. The signage will not be visible from the residential areas or neighborhoods, and will not be detrimental to the area; for the following property:

**PRT LT 1 BEG NWC LT 1 TH E420 S330.13 W420 N330.11 POB BLK 1 PHASE II
3.18ACS, COPPER OAKS, RICHMOND HILLS RESUB PRT B3&4 WILLOW CREEK,
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

16011-A—Wallace Engineering/Jim Beach

Action Requested:

Modification to a previously approved plan (BOA-16011) to permit an addition to the school. **LOCATION:** 10100 East 61st Street **(CD 7)**

Presentation:

Charlie Bushyhead, 7834 South Indian Avenue, Tulsa, OK; stated he represents the owner and will stand in for Jim Beach, in his absence, to answer any questions the Board may have. The request is for an addition of a fine arts wing to the 6th and 7th Grade Center.

Ms. Stead there is no plan in the Board's agenda packet regarding parking spaces, but there is mention of 245 parking spaces required and that 378 parking spaces are provided. Mr. Bushyhead stated that he not sure of the exact number of parking spaces needed in the original approval, but he knows the number of parking spaces provided now are in excess of the requirement.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, Van De Wiele, "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the request for a **Modification** to a previously approved plan (BOA-16011) to permit an addition to the school, subject to conceptual plan on page 8.7 showing it is north of the Fine Arts Building. The Board finds that this modification is compatible with the original Board of Adjustment approval; for the following property:

LT 1 BLK 1, COMMERCE CENTER RSB PT L4-6 B1 UNION GARDENS, RE-UNION, UNION GARDENS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21423-A—Francisco Plateado

Action Requested:

Modification to conditions of previously approved Special Exception (BOA-21423) to extend hours of operation **from** 8:00 A.M. to 12:00 midnight **to** 8:00 A.M. to 2:00 A.M.

LOCATION: 12615 East Admiral Place (CD 3)

Presentation:

Coyle Bitson, 2535 East 10th Street, Apt. 11, Tulsa, OK; stated she is representing Mr. Plateado. She is before the Board to request a modification to the hours of operation. When she was before previously she was not aware of the best hours of operations for Mr. Plateado's business, but most of his business contracts are for evening hours.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, Van De Wiele, "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the request for a **Modification** to conditions of previously approved Special Exception (BOA-21423) to extend hours of operation from 8:00 A.M. to 12:00 midnight to 8:00 A.M. to 2:00 A.M. Finding there is nothing but commercial business and undeveloped property in close proximity to the subject property. 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; for the following property:

BEG SECR LT 2 TH N466.8 W80 S466.8 E80 POB LESS S40 THEREOF SEC 5 19 14 .78AC, ESPO ADDN, M & M PROPERTIES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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OTHER BUSINESS

None.

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NEW BUSINESS

Mr. Swiney stated there is an update on the Kennedy Mansion case. A few weeks ago this Board issued a variance to the Kennedy Mansion to allow for special events with conditions. The conditions pertained to parking, attendance, noise levels, etc. That variance granted by the Board of Adjustment was appealed by some neighbors, and that appeal went to District Court. He attended the hearing last Friday, June 8th, before Judge Morrissey. The outcome of the hearing was that everyone entered into a consent decree. A consent decree is an order from the Court which was agreed to by all the parties. Essentially, Judge Morrissey ordered the status quo to continue. That is all of the conditions placed on the Kennedy Mansion by the variance are kept in place. When an action of the Board of Adjustment is appealed, that stays all proceedings during the pending appeal. Judge Morrissey ordered that the clock begin to run again. The variance was issued for six months. Now the six months begin as of right now or the day of the order and will continue with the conditions. The judge has ordered everyone to come back to court in six months, in December, essentially to inquire about the status of the case. At that point the appeal might become moot. The Board of Adjustment may rule that the variance be denied. The Board of Adjustment might rule that the variance could continue; that all remains to be seen.

Mr. Van De Wiele asked if this meant everyone would be going back to court before appearing back before the Board of Adjustment. Mr. Swiney answered that everyone will come before the Board of Adjustment in six months to confirm that the conditions have been complied with, and then everyone will go back to District Court.

Ms. Stead stated to Mr. Swiney that she thought the nomination of Board Officers was held in the first meeting of June and voted at the next meeting, and Mr. Henke had told her that the nominations and vote is at the same meeting. Mr. Swiney stated that is can be done as Mr. Henke stated or it can be split.

BOARD MEMBER COMMENTS

Mr. Henke stated that Mayor Bartlett has found an appointment for Ms. Stead's seat. He is not sure of the timing of the approval by the City Council, but he hopes this is not Ms. Stead's last meeting. It has been wonderful serving with Ms. Stead and he hopes to see her at the next meeting.

There being no further business, the meeting adjourned at 2:06 p.m.

Date approved: 6/26/12

Frank X. Henke
Chair