

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1161
Tuesday, May 10, 2016, 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 Snyder Van De Wiele White, Vice Chair Flanagan		Miller Moye Sparger Foster	Swiney, Legal Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, May 5, 2016, at 8:29 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. Moye read the rules and procedures for the Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the April 26, 2016 Board of Adjustment meeting (No. 1160).

UNFINISHED BUSINESS

None.

NEW APPLICATIONS

22064-Osage—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to permit a manufactured home in the AG District (Section 25.020-B); Variance to reduce the minimum lot area and lot area per unit requirement within an AG District (Section 25.020-C). **LOCATION:** 5627 West Young Street (CD 1)

Mr. White recused at 1:03 P.M.

Presentation:

Lou Reynolds, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated he represents Pam Ball. Ms. Ball moved onto the subject property 24 years ago and about three years ago she decided it was time to replace the manufactured house and moved it off the property. She purchased another manufactured home and the City of Tulsa informed her that she needed a Variance and a Special Exception to do so. Ms. Ball's property is in Osage County and the property was recently annexed into the City of Tulsa thus the need for the request. Mr. Reynolds stated that all of Ms. Ball's surrounding neighbors have submitted letters showing support for Ms. Ball's request. Mr. Reynolds stated there are other manufactured homes in the area and Ms. Ball is simply going to replace an old manufactured home with a new manufactured home. Ms. Ball has a concrete ramp and a detached garage that is totally enclosed for the manufactured home. Mr. Reynolds stated that Ms. Ball has continued to mow and maintain her property even though she has not been able to live there.

Mr. Henke asked Mr. Reynolds what sort of time frame was being requested for the manufactured home. Mr. Reynolds stated that the request would be for permanent residency because the property is the absolute maximum edge of the City limits and there is other manufacturing housing in the area which is not uncharacteristic for the area.

Mr. Van De Wiele asked Mr. Reynolds if the subject property was 1 ½ acres. Mr. Reynolds answered affirmatively. Mr. Van De Wiele asked Mr. Reynolds if the size of the lot was established prior to the annexation. Mr. Reynolds answered affirmatively and stated that it is in Osage County and was a lawful lot 25 years ago.

Mr. Reynolds stated that there are miles and miles of nothing but wild vegetation between the subject property and the next viable piece of property. The manufactured house to the north of the subject property that has been there for 20 to 30 years and it was also annexed into the City under the grandfather clause indefinitely. The subject property is in an agricultural area not in a residential area.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Snyder and Mr. Van De Wiele both stated they have concerns over the year limits.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 4-0-1 (Henke, Flanagan, Snyder, Van De Wiele “aye”; no “nays”; White “abstaining”; none absent) to **APPROVE** the request for a **Special Exception** to permit a manufactured home in the AG District (Section 25.020-B); **Variance** to reduce the minimum lot area and lot area per unit requirement within an AG District (Section 25.020-C), subject to conceptual plan 2.7. The Board has found that the applicant previous had a manufactured home on the subject property and the subject property is in a recently annexed area with other manufactured homes in the area. All of the surrounding properties touching the subject property have approved the moving of a manufactured home onto the subject property. 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. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision’s intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

South Half (S/2) of the following: Beginning 396 ft S of NW corner of Section 29, East 330 ft, South 330 ft, West 330 ft and North 330 ft, to the Point of Beginning, Section 29, Township 20 North, Range 12 East of the Indian Base and Meridian, City of Tulsa, Osage County, State of Oklahoma

Mr. White re-entered the meeting at 1:14 P.M.

22065—Scott Jackson

Action Requested:

Special Exception to permit a 55 foot monopole communication tower as proposed in the OL District with setbacks less than 110% (60.5 feet) of the height of the tower from the adjacent OL & RS-3 Districts (Section 40.420-E); Special Exception to modify the F1 screening requirements to remove the requirement for 1 tree for every 25 linear feet of fence (Section 65.060-C.5); Special Exception to waive required landscaping surrounding the base of the tower to permit the replacement of an existing tower on the subject property (Section 40.420-F.4). **LOCATION:** 1616 East 15th Street South (CD 4)

Ms. Snyder recused and left the meeting at 1:15 P.M.

Presentation:

Scott Jackson, 4015 Vailwood Drive, Nashville, TN; stated he represents Crown Castle. The request came about because AT&T wishes to make some modifications to the existing antenna, which is currently a wooden pole that was approved in 2000. When the pole was approved it was a structure that could handle the antennae that were installed on it. Since that approval it has had subsequent antennae added. The pole is comprised of wood so there is no way to structurally measure whether the pole is strong enough to handle additional antennae which is what drove Crown's need to replace the wooden structure with a steel pole.

Mr. Van De Wiele asked Mr. Jackson if the existing pole was 55 feet in height. Mr. Jackson stated that he thinks the existing pole is 50 feet but the request is for 55 feet, but in some places of the request it is stated "like for like" so it will be the same height change out.

Mr. Van De Wiele asked Mr. Jackson why the request for the modification to the landscaping. Mr. Jackson stated that Crown would be fine with complying with the landscape requirements but physically it is impractical. The existing lot is surrounded by asphalt alleyway and the lease area matches the lot line as well as a fence. Landscaping would impede the alley on the west side and on the back side there is a dumpster pad adjacent to the south side of the lease area.

Mr. Van De Wiele asked Mr. Jackson if the new pole would be installed and then the old pole would be torn down and removed. Mr. Jackson answered affirmatively. Mr. Jackson stated that IS typically what happens and is called a "swap and drop". A new structure will be erected and the new equipment will be placed on it and then the old site will be decommissioned.

Mr. Van De Wiele asked Mr. Jackson about the time frame between the construction of the new pole and the deconstruction of the old pole. Mr. Jackson stated that it would be approximately 30 days provided the tear down of the pole started immediately after the construction of the new pole.

Interested Parties:

Chip Atkins, 1638 East 17th Place, Tulsa, OK; stated he owns several houses in the neighborhood and one is adjacent to the property which is on Troost and is 95 years old. This pole has been in question since it was erected in 2000. Mr. Atkins stated that he has asked if the Oklahoma State Historic Preservation Office (SHPO) was notified and if the Tulsa Preservation Commission (TPC) was notified because this site sits on National Trust Property. The subject property is not an overlay property but it is a National Trust property which goes from 15th Street to 21st Street to Utica Avenue to Lewis Avenue with 19th Street having a jagged boundary. These questions have never been answered since 2000 and he would like to know if there are any answers today. Does this property have to appear in front of SHPO before it comes to the Board of Adjustment (BOA) or TPC. The reason for the first pole was because the applicant could not build on the Stillwater Bank building nor could they build on the church building near Jason's Deli. Since then 15th Street has built up and there are new businesses, i.e., the car wash. Will the antenna be able to project past the buildings because that was an issue at the last meeting. Mr. Atkins stated that he sees nothing in the notes about how far the closest house is to the subject property and the proposed pole which he estimates to be less than 25 feet. Mr. Atkins stated that he is for a cell phone tower being erected in the area but not at the subject location. Mr. Atkins believes this request should be taken before SHPO and TPC as well before the plans go any farther then come back to the BOA board.

Mr. Swiney stated the subject property is not in a historic preservation district according to the map on page 3.1 in the Board's agenda packet. If there are other permits and other permissions required from other agencies those do not depend on what the Board of Adjustment decides nor does the Board of Adjustment depend on other considerations.

Mr. Atkins stated that he is speaking of National Trust property not the overlay district. The National Trust property is separate from the overlay district. The reason for the overlay district is because a person has to have a National Trust property first before there can be an overlay district. In the past there has to be permission given from SHPO and others in order to erect antennae such as the one proposed into the National Trust properties.

Ms. Miller stated the subject property is listed on the National Register of Historic Places. The City of Tulsa Historic Preservation program is a little different, but unless the City of Tulsa requires that the proposal be reviewed or requires SHPO to review the proposal, and it is not a requirement of SHPO to require a review of everything that comes in for permitting. The City of Tulsa may have a review process that they perform but if they do it would be reviewed by the staff of the Preservation Commission because

they do a lot of reviews subject to SHPO and other standards. Ms. Miller stated that she has not heard of that being a requirement before because there is quite a bit of property on the National Register, far more than the HP zoned property being discussed.

Rebuttal:

Mr. Scott Jackson came forward and stated that as a matter of policy Crown does go through any local or state historic preservation approvals in order to get the poles as part of the regulatory procedure. If they are deemed to be in noncompliance they will be prevented from going forward.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-1 (Henke, Flanagan, Van De Wiele, White “aye”; no “nays”; Snyder “abstentions”; none absent) to **APPROVE** the request for a Special Exception to permit a 55 foot monopole communication tower as proposed in the OL District with setbacks less than 110% (60.5 feet) of the height of the tower from the adjacent OL & RS-3 Districts (Section 40.420-E); Special Exception to modify the F1 screening requirements to remove the requirement for 1 tree for every 25 linear feet of fence (Section 65.060-C.5); Special Exception to waive required landscaping surrounding the base of the tower to permit the replacement of an existing tower on the subject property (Section 40.420-F.4), subject to conceptual plans 3.19, 3.20, 3.21, 3.22, 3.23 and 3.24. The Board has found that the existing tower will be replaced in the days or weeks following the construction of the permitted tower today. This approval is subject to the condition that the existing tower be removed within 60 days after the construction of the tower that is being permitted today. In connection with this approval the Board has found that the following factors have been considered in approving the Special Exceptions to permit the requested cellular tower:

- (1) Height of the proposed tower;
- (2) Proximity of the tower to residential structures, residential district boundaries and existing towers;
- (3) Nature of uses on adjacent and nearby properties;
- (4) Surrounding topography;
- (5) Surrounding tree coverage and foliage;
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (7) The total number and size of antennas proposed and the ability of the proposed tower to accommodate co-location;
- (8) Architectural design of utility buildings and accessory structures to blend with the surrounding environment;
- (9) Proposed ingress and egress;
- (10) The need for a tower within the immediate geographic area to provide an acceptable level of communications service to the area;

(11) The size of the tract and the most likely future development as indicated by the comprehensive plan, planned infrastructure, topography and other physical considerations.

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; for the following property:

W40 LTS 1 THRU 3 LESS N5 THEREOF BLK 3, ORCUTT ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Ms. Snyder re-entered the meeting at 1:34 P.M.

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 1:35 p.m.

Date approved: 5/24/16

Francis X. Harris

Chair