

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1206
Tuesday, May 22, 2018, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Van De Wiele, Chair Flanagan, Vice Chair Back, Secretary Bond Ross		Miller Ulmer Sparger R. Jones	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on May 17, 2018, at 10:38 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Van De Wiele called the meeting to order at 1:05 p.m.

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

MINUTES

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the May 8, 2018 Board of Adjustment meeting (No. 1205).

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present; the fifth member is in route and is expected shortly. In those instances when there is less than five any motion will require an affirmative vote of three of the four members. If the Board gets to an applicant's request on the agenda and it appears there is going to be a deadlock the Board will move that item to the end of the agenda and deal with it when Mr. Bond arrives.

UNFINISHED BUSINESS

None.

NEW APPLICATIONS

22441—Christopher Granados

Action Requested:

Modification to a previously approved Special Exception (BOA-21591) to permanently allow a vehicle repair/maintenance use in a CS District (Section 15.020). **LOCATION:** 11426 East 21st Street South **(CD 6)**

Presentation:

Carlos Valdez, 3822 South 118th East Avenue, Tulsa, OK; this request is to continue a previously approved Special Exception.

Daniel Miranda, 11682 East 21st Street, Suite B, Tulsa, OK; came forward with Mr. Valdez.

Mr. Van De Wiele stated there have been changes to the Zoning Code which may be in favor of the applicant, such as the applicant may not need as much relief as previously. Mr. Van De Wiele asked Mr. Valdez what type of vehicle service and repair maintenance is being performed on the site. Mr. Valdez stated that repairs are on personal vehicles. Mr. Van De Wiele asked Mr. Valdez if there were any commercial repairs performed on the site. Mr. Valdez stated there is only personal vehicle repairs only. Mr. Van De Wiele asked if there were any sales. Mr. Valdez answered no. Mr. Van De Wiele asked there were any parts sold at the site. Mr. Valdez answered no. Mr. Van De Wiele asked Mr. Valdez if there was a gas station operated on the site. Mr. Valdez answered no. Mr. Van De Wiele asked Mr. Valdez if there were any cars being sold from the site. Mr. Valdez answered no.

Mr. Van De Wiele stated that the repairs on personal vehicles is now a permitted by right use and is no longer a use that requires a Special Exception.

Mr. Van De Wiele asked Ms. Miller if there would be a possible refund to the applicant. Ms. Miller stated the staff will look at the application for a determination.

Mr. Van De Wiele informed Mr. Valdez and Mr. Miranda that the request is no longer needed, and they may leave.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **DISMISS** the request for a **Modification** to a previously approved Special Exception (BOA-21591) to permanently allow a vehicle repair/maintenance use in a CS District (Section 15.020) is no longer needed due to the new Zoning Code allowing the specified uses on site; for the following property:

LT 1 BLK 1, RICHARD HENRY ADDN, BURRIS SQUARE, LESLIE LEIGH ADDN, BRIANA ANN ADDN RESUB L1 B1 LESLIE LEIGH ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Bond entered the meeting at 1:15 P.M.

22442—Amy Peters

Action Requested:

Special Exception to allow a Commercial/Assembly & Indoor Entertainment use (large capacity over 250) in a CS District (Section 15.020). **LOCATION:** 3502 East 51st Street South (**CD 9**)

Mr. Van De Wiele asked staff if there were concerns and/or issues about the addresses. Ms. Ulmer stated the request should be tied to the address of 3328 East 51st Street. The address 3502 East 51st Street is the overall address for the larger parcel, and that was a mistake to have the notices sent with that address. Mr. Van De Wiele asked Ms. Ulmer if the address 3328 East 51st Street was the old grocery store. Ms. Ulmer answered affirmatively.

Presentation:

Cody Herndun, 632 Grove Creek Road, Waxahachie, TX; stated that Urban Air is a place where every parent can create life long memories with their children. That was accomplished by bringing world class cutting edge attractions into the facility, coupled with the opportunity to have birthday parties. There will be about 70 people employed at the subject location, with many of the employees being 15, 16, 17 and 18 years of age, and for most of them this will be their first job. Urban Air also is involved civically in the community; working with the schools and the non-profits within Tulsa.

Mr. Van De Wiele asked if the interior of the facility changes, i.e., is it a trampoline park one day and a Jupiter jump another day. Mr. Herndun stated that it does not change. Only 20% of the floor plan has trampolines, it is really a full adventure park. There are 15 attractions planned for the facility; the structures and design of many of the

attractions are to stay in place. Urban Air has evolved away from the trampoline park setting and into adventure park setting by taking out some of the trampolines and replacing them with rides like the Sky Rider and the rock wall climbing. The hours of operation will change during the summer; while school is in session the facility would open from 4:00 P.M. to 8:00 P.M., Monday through Thursday, Friday hours are 12:00 noon to 11:00 P.M., Saturday hours are 10:00 A.M. to 11:00 P.M., and Sunday 1:00 P.M. to 8:00 P.M. When school is out of session, i.e., Christmas break or spring break, the hours will be 10:00 A.M. to 8:00 P.M., Monday through Thursday; everything else will stay the same. None of the hours elongate.

Mr. Van De Wiele stated that to the extent the Board is in favor of this request, the Board would probably limit the activity to the 3328 East 51st Street address so the entire facility does not change to an adventure park. Typically, the Board tries to limit the use to what is being done by the applicant so there is not an unintended use, i.e., night club.

Mr. Van De Wiele asked Mr. Herndun if he was leasing the location. Mr. Herndun answered affirmatively. Mr. Van De Wiele asked Mr. Herndun how long the lease was for. Mr. Herndun stated that the lease is for ten years. Mr. Van De Wiele asked Mr. Herndun if he had signed the lease. Mr. Herndun answered affirmatively. Mr. Van De Wiele asked Mr. Herndun when the lease started. Mr. Herndun stated the lease actually begins when permits can be obtained and take occupancy.

Mr. Flanagan asked Mr. Herndun if there would be alcohol served at the facility. Mr. Herndun stated there would not.

Ms. Back asked Mr. Herndun about the sound proofing of the facility. Mr. Herndun stated they don't sound proof. Mr. Herndun stated that the Waxahachie facility, which was also a previous grocery store, has neighbors on the east and west sides and the only time they heard anything was during construction.

Amy Peters, 11290 Sugar Mill Lane, Frisco, TX; stated there will nothing outside of the building and there will be no music played outside. Everything is indoors.

Interested Parties:

Bruce Horgen, 5142 South Marion Avenue, Tulsa, OK; stated his residence backs up to the subject property. His concerns were if this change would affect the entire parcel and seeing this is just for the address that concern is relieved. Mr. Horgen stated there is PUD-372 that overlaps the CS property and the residential property, and he assumes if the request is granted that it will not go into the PUD as well. Mr. Van De Wiele answered affirmatively.

Comments and Questions:

None.

Board Action:

On **MOTION of BACK**, the Board voted 5-0-0 (Back, Bond, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to allow a Commercial/Assembly & Indoor Entertainment use (large capacity over 250) in a CS District (Section 15.020), subject to conceptual plans submitted today, dated 05/22/2018. The approval is subject to the following conditions; it is limited to the conceptual attractions as submitted that go along with the adventure park theme, limited to ten years from the issuance date of the Certificate of Occupancy, limited to the address of 3328 East 51st Street South. The Board finds that the requested 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:

LT 1 LESS W50 S167.28 & LESS E50 N125 & LESS BEG 272S NWC LT 1 TH E APR 34.81 S APR 3.04 SW127.48 SW220.23 N APR 348.07 POB & LT 3 LESS TR BEG NWC LT 3 TH E209 S174 W35 S5 W25 S50 E60 S43 W209 N272 POB BLK 1, LOU NORTH WOODLAND ACRES 2ND ADDN, ENIX GROVE ADDN, SOUTHERN HILLS MALL ADDN AMD, CRESCENT PARK ADDN, WATERFORD, SOUTHERN HILLS MALL SECOND ADD RSB PT B1 SO HILLS MALL, City of Tulsa, Tulsa County, State of Oklahoma

22443—Billy Thompson

Action Requested:

Special Exception to permit a carport in the street setback (Section 90.090-C.1).

LOCATION: 8933 East Oklahoma Street North **(CD 3)**

Presentation:

Billy Thompson, 8933 East Oklahoma Street, Tulsa, OK; stated he would like to have a permit for a carport.

Delores Deckard, 13808 East 83rd Street North, Owasso, OK; stated she is Mr. Thompson's daughter.

Mr. Van De Wiele asked Ms. Deckard if the carport depicted on page 4.7 of the agenda was the carport being discussed. Ms. Deckard answered affirmatively.

Mr. Van De Wiele asked about the dimensions of the carport. Ms. Deckard stated the carport is 20 feet long and 12 feet wide. The carport frame measured out at 20 feet long with a 6" overhang, and she believes why the carport was questioned.

Mr. Van De Wiele asked Ms. Deckard if there were other carports in the neighborhood. Ms. Deckard answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 5-0-0 (Back, Bond, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a carport in the street setback (Section 90.090-C.1), subject to the conceptual plan as shown on page 4.7 and the page 4.8 for the carport conceptual dimensions of the agenda packet. The Board finds that the requested 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:

LOT 20 BLK 3, VAN ACRES ADDN AMD, City of Tulsa, Tulsa County, State of Oklahoma

22444—Jay Kingsley

Action Requested:

Variance to permit a swimming pool to be located within the street setback (Section 5.030-A, Section 90.090-C). **LOCATION:** 2929 East 56th Place South (CD 9)

Presentation:

The applicant was not present.

Mr. Van De Wiele moved this item to the end of the agenda.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required at this time.

22445—Wallace Engineering – Mike Thedford

Action Requested:

Variance of the required street setback from South Birmingham Avenue (Section 5-030-A); Variance to permit a retaining wall within the City of Tulsa street right-of-way (Section 90.090-A). **LOCATION:** 1803 South Birmingham Avenue East (**CD 4**)

Presentation:

Mike Thedford, Wallace Engineering, 200 East M. E. Brady, Tulsa, OK; stated there is a deteriorated sidewalk and it will be replaced, and they would like to improve the street access to the residence with a landing, retaining wall and stairs within the right-of-way. There is about 15 feet from the property line to the street, an existing sidewalk, and the general location of the new sidewalk will be the same as the existing sidewalk location. The proposed landing is so if someone parks on the street there is a landing with access to the stairs with a retaining wall on each side of the stairs. Mr. Thedford stated the grade is about three feet and from the structure it is four feet.

Mr. Van De Wiele asked Mr. Thedford if the width of the sidewalk would be about four feet. Mr. Thedford answered affirmatively.

Ms. Back asked Mr. Thedford if he had received the license agreement and if it had been approved. Mr. Thedford answered affirmatively.

Mr. Van De Wiele asked Mr. Thedford to provide INCOG with a copy of the license agreement.

Mr. Thedford stated the hardship for the Variance is the topography; the slope necessitates the proposal. There will be no other improvements except for the retaining wall and stairs with a sidewalk in front of it.

Robert Wallace, 1803 South Birmingham Avenue, Tulsa, OK.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-1 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; Flanagan "abstaining"; none absent) to **APPROVE** the request for a Variance of the required street setback from South Birmingham Avenue (Section 5-030-A); Variance to permit a retaining wall within the City of Tulsa street right-of-way (Section 90.090-A), subject to conceptual plans 6.11, 6.12, 6.13, 6.14 and 6.15 of the agenda packet. The Board finds the hardship to be the topography of the land making it difficult

to utilize the front approach to the house for guests. The applicant is to submit the approved license agreement to INCOG. The Board finds 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:

LT 9 BLK 2, BARNARD VIEW ADDN EXT, BARNARD VIEW ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22444—Jay Kingsley

Action Requested:

Variance to permit a swimming pool to be located within the street setback (Section 5.030-A, Section 90.090-C). **LOCATION:** 2929 East 56th Place South (CD 9)

Presentation:

The applicant was not present.

Mr. Van De Wiele stated the Board can decide whether to act on this request or to continue it. Mr. Van De Wiele stated that personally he would choose to act on it because there was a very similar request a few doors down.

Mr. Van De Wiele asked Ms. Miller if the reason this request is necessary is because the house has a front on two streets. Ms. Miller answered affirmatively.

Ms. Blank stated the previous Variance granted in 2016 was for the lot immediately to the west, so it is not the pool that is seen in the aerial photo. Ms. Blank stated the Board also needs to consider that if the applicant is not in attendance today it may be

because the plans have changed, or the applicant may no longer need the Variance. Ms. Blank stated it is a better practice for the Board to continue the request.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Back, Bond, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; absent) to **CONTINUE** the request for a Variance to permit a swimming pool to be located within the street setback (Section 5.030-A, Section 90.090-C) to the June 12, 2018 Board of Adjustment meeting; for the following property:

LT 10 BLK 2, FAIRWAY ESTATES THIRD ADDN, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 1:50 p.m.

Date approved: _____

Chair