

**CITY BOARD OF ADJUSTMENT**  
**MINUTES of Meeting No. 1038**  
Tuesday, December 14, 2010, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2<sup>nd</sup> Street

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Henke, Chair Stead Tidwell, Secretary White, Vice Chair Van De Wiele		Alberty Cuthbertson Sparger	Boulden, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, December 9, 2010, at 10:11 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.

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Mr. Cuthbertson read the rules and procedures for the Board of Adjustment Public Hearing.

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**MINUTES**

On **MOTION** of **TIDWELL**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the **Minutes** of November 23, 2010 (No. 1037).

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**UNFINISHED BUSINESS**

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**NEW APPLICATIONS**

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**Case No. 21177-Randy Jackson**

**Action Requested:**

Special Exception to permit a community group home (Use Unit 8) in an RS-2 district (Section 401). **Location:** 8234 South Sandusky Avenue East

**Presentation:**

Case was withdrawn.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

The City of Tulsa reviewed this case and it was determined that what Mr. Jackson was attempting to establish on the property was consistent with the City's definition of family; therefore, they are moving forward with the permit. It was concluded that no Board of Adjustment action is necessary.

A request for a refund will be addressed in the January 11, 2011 meeting.

**Board Action:**

None at this time.

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**Case No. 21187-Impact Engineering and Planning**

**Action Requested:**

Special Exception to permit a Community Center (Use Unit 5) in the RS-3 district (Section 401); a Variance of the required yard abutting a public street from South 43<sup>rd</sup> West Avenue (Section 403); a Variance of the minimum building setback for a community center from an abutting R zoned property from 25 ft. to 5 ft. (Section 404.F.4); a Special Exception to modify and remove the screening requirement for a parking area within 50 ft. of an R district (Section 212.C); and a Variance of the setback for parking areas from the centerline of abutting streets (Section 1302.B).  
**Location:** West of the SW/c of West 55<sup>th</sup> Place and South 41<sup>st</sup> West Avenue

**Presentation:**

None.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

The applicant needs to reconfigure the property that will be subject to this request, therefore, it will be necessary to mail out new notices. The applicant requests this case be continued to the January 11, 2011 City Board of Adjustment meeting.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **CONTINUE** Case #21187 to January 11, 2011; for the following property:

**LTS 1 through 13 BLK 13; the west ½ of LT 14, BLK 13; and LTS 18 through 23, BLK 13; OPPORTUNITY HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 19583-A-Corey Nichols**

**Action Requested:**

Modification of a previous approval to eliminate the condition of a screening fence around the property. **Location:** 3901 North Lewis Avenue East

**Presentation:**

**Corey Nichols**, Nichols and Sons Construction, 1517 East Admiral Boulevard, Tulsa, OK; stated he is building an auto salvage business on North Lewis Avenue. The City Board of Adjustment gave him previous approval for the salvage yard with a screening fence to enclose the property. A fence has been erected that runs north and south of the existing building on North Lewis Avenue, and the fence does not allow a public view of the salvage yard. The reason for the request of modification to the previous approval is because during the process of cleaning the yard of vegetation, cars and debris it was discovered that the property of the south side of the salvage is 20 feet higher than the salvage yard. This elevation, in the land, does not make a screening fence cost effective because the salvage yard is below street level.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Modification of a previous approval to eliminate the condition of a screening fence around the property with the condition the Board accepts the two portions of fence on the north and south screening the west; no salvage, pieces, parts or cars be parked in front of the building; this

approval is according to the as-built plan on page 2.7; finding that this modification is in compliance with the original approval of the City Board of Adjustment in Case No. 20033; for the following property:

**BEG SWC SW NW SW TH N244 E660 S242.6 W660 POB LESS W33 & E25 THEREOF FOR RD SEC 17 20 13 3.363 ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21172-Carissa Jones**

**Action Requested:**

Verification of the spacing requirement for a family day care home of 300 ft. from another family day care home on the same street (Section 402.B.5.g). **Location:** 8806 East 79<sup>th</sup> Street South

**Presentation:**

**Carissa Jones**, 8806 East 79<sup>th</sup> Street South, Tulsa, OK; no presentation made.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **ACCEPT** the Verification of the spacing requirement for a family day care home of 300 ft. from another family day care home on the same street (Section 402.B.5.g); subject to the action of the Board being void should another family day care home be established prior to this family day care home; for the following property:

**LT 1 BLK 10, VILLAGES OF HIGHLAND PARK, THE WOODLAND MEADOWS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21173-Michael Payne**

**Action Requested:**

Variance of the parking requirement for a commercial/industrial building in an IL district (Section 1200) within the IDL. **Location:** 629 West 1<sup>st</sup> Street

**Presentation:**

**Michael Payne**, 1708 West Easton Court, Tulsa, OK; stated the property in question has been abandoned since the 1970's. The code requires eight parking spaces per the square footage, and this property is built on a zero lot line. To obtain a building permit a parking variance is necessary.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the parking requirement for a commercial/industrial building in an IL district (Section 1200) within the IDL. The Board has found that the unusual shape of the lot, the zero lot line does not provide parking; it is located in the IDL but not designated by code as a CBD, which would alleviate off-street parking requirement. In granting this Variance, the Board has found these 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:

**LTS 7 & 8 LESS BEG SECR LT 7 TH WLY 35 NELY TO PT ON NL LT 7 TH E15 S TO POB BLK 23, OWEN ADDN AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21174-Russ Roach**

**Action Requested:**

Variance of the minimum average lot width required in an RS-1 district from 100 to 64.5 ft. (Section 403) to permit a lot-split. **Location:** 6960 South Columbia Avenue

**Presentation:**

**Russ Roach**, 6960 South Columbia Avenue, Tulsa, OK; stated the area north of 71<sup>st</sup> Street is extremely rugged terrain, and for most of the property sewer service is the issue. Mr. Roach stated he has worked with the Water and Sewer Department and is abiding by their request and has secured assigned easement. The City obtained the property to the south by condemnation, thus causing a very odd-shaped piece of property because of the very long strip of land to the north. The Variance requested is

for the minimum lot width, for half an acre each, which is 50% larger than required in an RS-1 district. Mr. Roach expressed that he would like to build another house on the second lot if the Variance is granted.

Mr. Van De Wiele asked Mr. Roach what he thought made his lot odd shaped, and Mr. Roach stated the staff report says the property is a retention facility but Mr. Roach stated it is not. The property has two inground grates that drain four houses and it is larger than it needs to be. Mr. Roach stated there is also confusion with the City about the property boundary to the south, where the City should maintain or should not maintain the property. Mr. Roach also provided that the existing ten-foot sliver for water and sewer contributes to the odd shape.

**Interested Parties:**

**H. D. Hewlett**, 7023 South Birmingham Court, Tulsa, OK; stated he represents everyone that lives on Birmingham Court and everyone is opposed to the proposed variance request. There are drainage problems since the unusual plumbing for Mr. Roach's house has been completed. The quality of life and pleasure of living in the area will be destroyed in this prominent area if the variance is granted.

**Paul Swain**, 6830 South Delaware Avenue, Tulsa, OK; stated he is an attorney and a property owner in the neighborhood and is a representative of the neighbors to the east and north of the Birmingham Court group. He and the group of property owners oppose the variance request. If this variance is granted, and allowed to set a precedent, it will lead to a lot-split and a lot-split is out of character with the neighborhood.

**Thomas Wilson**, 6920 South Columbia Avenue, Tulsa, OK; stated that he is opposed to this variance.

**Greg McWilliams**, 6950 South Columbia Avenue, Tulsa, OK; stated he lives north of Mr. Roach's property and he owns the ten-foot strip of land that Mr. Roach states he owns and is including in his request for a variance. Mr. McWilliams stated he purchased the property from Brownsville and had the option to purchase the property that Mr. Roach now owns. Mr. McWilliams stated he also pays taxes on the ten foot strip of land in question, and can provide a land description. Mr. McWilliams stated he is opposed to the requested variance.

Mr. Van De Wiele requested Mr. Cuthbertson display page 5.5 for Mr. McWilliams and the audience to show what the Tulsa County Land Records showed as land ownership. The page reflected the ten foot wide strip of land to be an easement strip of property owned by Mr. Roach.

**Bonnie O'Hara**, 7007 South Birmingham Court, Tulsa, OK; stated that she is opposed to the requested variance. Ms. O'Hara stated that when the sewer and water lines were installed the drainage was disturbed and it destroyed three retaining walls thus devaluing her home. She stated that she had installed the retaining walls to protect her

home, and if Mr. Roach is allowed to obtain the variance to build another home on the property she is afraid it will devalue her home even further.

**David Dillion**, 6975 South Columbia Avenue, Tulsa, OK; stated he is a retired home builder and developer and he opposes the requested variance.

**Rebuttal:**

Mr. Roach stated that the strip of land in question does cause a lot of confusion. He stated he had the sewer line installed as requested by the City. He also admitted there is a drainage issue but will guarantee that there will be no drainage toward the west. Mr. Roach stated he thinks his hardship is the topography and the odd shape of his lot. Mr. Roach stated that he is proposing a lot configuration that is found in the neighborhood.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **DENY** the Variance of the minimum average lot width required in an RS-1 district from 100 to 64.5 ft. (Section 403) to permit a lot-split. The Board has found no hardship which would satisfy the zoning code requirements, and the Board cannot approve the variance as it is out of character for the neighborhood involved. The Board also must certify that the variance request would not be harmful to the neighborhood and the Board feels this variance would be harmful to the neighborhood; for the following property:

**PRT W/2 SE SE SW & PRT E/2 SE SE SW BEG NWC W/2 SE SE SW TH E10 S351.49 E121.81 NE220.44 SLY ALG CRV RT 121.05 NW19.54 SW52.26 W298.49 N POB SEC 5 18 13 1.008AC, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21175-Hugh Weigant**

**Action Requested:**

Variance from the maximum allowable floor space in the aggregate for detached accessory buildings in an RS-1 district (Section 402.B.1.d) from 960 sq. ft. to 1500 sq. ft. **Location:** 6536 East 25<sup>th</sup> Place South

**Presentation:**

**Hugh Weigant**, 6536 East 25<sup>th</sup> Place, Tulsa, OK; stated he wants to build a shop for personal use and storage.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance from the maximum allowable floor space in the aggregate for detached accessory buildings in an RS-1 district (Section 402.B.1.d) from 960 sq. ft. to 1500 sq. ft. The Board has found that this lot containing a total of 46,500 sq. ft. is much larger than the average lot; however, the code has based the maximum accessory building, which would be 960 sq. ft., assuming an ordinary RS-1 minimum lot of 13,500 sq. ft. This lot actually contains 1.7 acres or 3.4 times the minimum. The driveway extension shall be concrete; the accessory building shall be used for storage or personal activities and shall not be constructed or furnished as an independent dwelling for family or rental or any other commercial use at any time; subject to the conceptual site plan on page 6.6; and the building shall be no larger than 1,500 sq. ft. In granting this Variance the Board has found the above reasons and 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-2-BLK-5-&-N. 40'VAC. ST. ON S., JOHANSEN ACRES AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21176-Rob Davis**

**Action Requested:**

Variance of the maximum permitted floor area for detached accessory buildings in the RS-3 district (Section 402.B.1.d) from 900 sq. ft. to 1,430 sq. ft. **Location:** 5645 South 33<sup>rd</sup> West Avenue

**Presentation:**

**Rob Davis**, 5645 South 33<sup>rd</sup> West Avenue, Tulsa, OK; stated he wants to build a shop for storage and personal use.

**Interested Parties:**

There were no interested parties present.



**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the maximum permitted floor area for detached accessory buildings in the RS-3 district (Section 402.B.1.d) from 900 sq. ft. to 1,430 sq. ft. The Board has found that the RS-3 minimum square footage for a lot is 6,900 sq. ft. while this lot contains .937 acres or 40,850 sq. ft. of lot area. The Board makes this condition on the fact that the proposed shop will be used for personal use with no living quarters; the height limitation will be 35'-0"; there will be no commercial use of the facility; subject to the conceptual plan on page 7.6. Any additional drive or parking area shall be concrete. In granting this Variance the Board finds 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; for the following property:

**BEG 35E & 637.25S NWC NW SW TH E281.45 N150 W281.45 S150 POB LESS W15 FOR ST SEC 34 19 12, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21179-Ronald Baxter, Jr.**

**Action Requested:**

Verification of the spacing requirement for a family day care home of 300 ft. from another family day care home on the same street (Section 402.B.5.g). **Location:** 10005 East 28<sup>th</sup> Street South

**Presentation:**

**Shemora Sheikh**, 10005 East 28<sup>th</sup> Street South, Tulsa, OK; no presentation made.

**Interested Parties:**

**Robbie Thanes**, 2336 South 103<sup>rd</sup> East Avenue, Tulsa, OK; stated there is a senior disabled center called Angel House in the neighborhood. Ms. Thanes stated that she did not want to see diapers and trash in the street or in the yard of the day care home.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **ACCEPT** the Verification of the spacing requirement for a family day care home of 300 ft. from another family day care home on the same street (Section 402.B.5.g); subject to the action of the Board being void should another family day care home be established prior to this family day care home; for the following property:

**LOT 11 BLK 3, LONGVIEW LAKE ESTATES B1-14, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21180-Claude Neon Federal Signs**

**Action Requested:**

Variance of the maximum display surface area for a sign in the R district from 150 sq. ft. (Section 402.B.4) to permit a new ground sign on the Yale Avenue frontage.

**Location:** SE/c of South Yale Avenue and East 61<sup>st</sup> Street

**Mr. Van De Wiele recused himself and left the room at 2:37 P.M.**

**Presentation:**

**James Adair**, 7508 East 77<sup>th</sup> Street, Tulsa, OK; stated he represents St. Francis Hospital and the Variance is being requested for the square footage, not the sign itself. Approximately one and a half years ago St. Francis started designing new pylon signs for the entrance on 61<sup>st</sup> Street and for the entrance on South Yale. Both entrances have existing signs in place and they will be removed and replaced with the newly-designed signs. The South Yale location project was delayed due to St. Francis Hospital working with the Traffic Engineering Department and City Development as to how to create a new entrance on South Yale. The outcome was that St. Francis was told where the new entrance will be and it will be a signalized intersection with the signal being located on the southern part of the property. The newly designed pylon sign could not be placed on South Yale. The alternative was to design a set of letters to be placed on a retaining wall. The wall the letters will attach to is 235'-0" in length with a four foot taller retaining wall behind that, which is 280'-0" in length and the third retaining wall, which is an additional four feet taller than the second wall, is 325'-0" in length. These three retaining walls create a massive presence; it is over 20'-0" tall and over 300'-0" wide. Originally a wall sign permit had been applied for but the City of Tulsa considers this to be a free-standing monument sign because the wall is not a building. St. Francis is entitled to, a total of 150 sq. ft. of total signage per street frontage. The logos and letters proposed comprise 346.24 sq. ft. Recently St. Francis Hospital has

been rezoned from RS-3 to OH; it was published on December 7<sup>th</sup> and rezoning will take effect January 7<sup>th</sup>.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Mr. Adair stated that the approved minutes from this meeting must be submitted to apply for an amended permit; therefore, an amendment to the sign permit application cannot be made until after the January 11, 2011 Board of Adjustment hearing.

**Yuen Ho**, Manager for Building Plans Review, City of Tulsa, 175 East 2<sup>nd</sup> Street, Tulsa, OK; stated the City can accept the results of this hearing prior to receiving the official minutes in order to permit the proposed sign.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the maximum display surface area for a sign in the R district from 150 sq. ft. (Section 402.B.4) to permit a new ground sign on the Yale Avenue frontage. The Board has found that although this is designated a ground sign, it will actually be installed on the south end of the western retaining wall. This sign will be constructed per conceptual plan on page 10.15; all letters will be softly backlit; the sign total square footage not to exceed 346.24 sq. ft. In granting the Variance the Board has found that 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:

**BEG 350S & 300E NWC NW TH E1020.83 S1147.88 W1020.83 N1147.88 POB SEC 3 18 13; BEG 60E SWC GOV LT 4 TH E250 N1147.88 E1020.83 N300 NW141.42 W430.98 S5 W650 SW39.05 S210 SW52.5 S250 W5 S876.81 E10 S20 TO POB LESS BEG 350S & 55E NWC SEC 3 TH NE17.40 S848.25 E20 S140 W10 S175.46 W10 N20 W10 N876.98 E5 N250 POB FOR RD SEC 3 18 13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. Van De Wiele** reentered the meeting at 2:50 P.M.

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## **Case No. 21181-Oscar Garcia**

### **Action Requested:**

Special Exception to permit a multifamily residence in an OL zoning district (Section 601). **Location:** 1313 East 60<sup>th</sup> Street

### **Presentation:**

**Ofie Seymour**, Interpreter for Mr. Oscar Garcia, 8206 South 43<sup>rd</sup> West Avenue, Tulsa, OK; and **Oscar Garcia**, 5809 South Peoria, Tulsa, OK; no presentation was made.

Ms. Stead stated there was no site plan in the Board's packet, and she asked Mr. Garcia if he had a site plan to present to the Board for consideration. Ms. Seymour stated that Mr. Garcia did not want to pay an architect to draw a plan for something that has not been given approval by the Board. Ms. Stead told Ms. Seymour that the Board cannot approve a request without a site plan.

### **Interested Parties:**

**Rodney Buck**, 1333 East 60<sup>th</sup> Street, Tulsa, OK; stated that 60<sup>th</sup> Street is a natural barrier for a division of single-family dwellings and multi-family dwellings. He does not want to have a multifamily dwelling built in an existing single-family neighborhood, because most people who live in apartments do not have respect for another person's property; i.e., litter, trespassing, trash, etc. Mr. Buck stated he would rather have an office building in his neighborhood versus a condominium or an apartment complex.

**Lewis Barron**, 5908 South Quincy Avenue, Tulsa, OK; stated that more rental property will add to the degradation of the neighborhood. There would also be a parking issue if a multi-family dwelling were allowed to be built. Another concern of the neighborhood is the maintenance of the units; once the units are built, will the owner maintain the land and the cosmetic appearance of the buildings.

**Dean Messick**, 1330 East 58<sup>th</sup> Street, Tulsa, OK; stated that he has had problems with the current owner keeping the land clean and maintained; i.e., trees are a problem because they are causing damage to his building.

**Cindy Evans**, 224 East 45<sup>th</sup> Court, Tulsa, OK; stated she is the owner of the lot in question. The lot has been and is difficult to maintain and to keep mowed. Ms. Evans thinks the proposed project would be an asset to the area.

### **Comments and Questions:**

The Board asked the applicant to provide a site plan to review at the next meeting, January 11, 2011.

### **Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **CONTINUE** the request for Special

Exception to permit a multifamily residence in an OL zoning district (Section 601) to January 11, 2011; for the following property:

**E 138 LT 10, SOUTHLAWN ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No.21182-Global Sign Solutions**

**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 RS-3 district (Section 402.B.4).

**Location:** 1438 South Indianapolis Avenue

**Presentation:**

**Richard Craig**, 1889 North 105<sup>th</sup> East Avenue, Tulsa, OK; stated the new sign is proposed to be located where the current sign is so there is minimal change and no or little disturbance to the landscaping.

Ms. Stead stated the proposed LED sign will need to be moved closer to the building because the code requires LED signs to be at least 20 feet away from the lanes of traffic.

Mr. Cuthbertson stated that the new sign is not allowed in the right-of-way per code, and the existing sign appears to be in the right-of-way, per the County-recognized property line. Mr. Cuthbertson stated that if the proposed sign is located in the right-of-way, additional relief would be needed from the Board.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

The Board asked Mr. Craig to verify if the proposed sign is in the right-of-way.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **CONTINUE** the request for a 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 RS-3 district (Section 402.B.4) to January 11, 2011; for the following property:

**LTS 3, 4, & 5, BLK 3, SUMMIT HGTS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21183-Lamar Central Outdoor**

**Action Requested:**

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2). **Location:** 5555 South 129<sup>th</sup> Avenue East

**Presentation:**

**Lorinda Elizando**, 7777 East 38<sup>th</sup> Street, Tulsa, OK; no presentation made.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **ACCEPT** the Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2); subject to the action of the board being void should another outdoor advertising sign be constructed within 1,200 feet prior to this sign; for the following property:

**Lot 1, Block 1, FORD MOTOR CO TULSA GLASS PLANT, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No.21184-Lamar Central Outdoor**

**Action Requested:**

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2). **Location:** 5555 South 129<sup>th</sup> East Avenue

**Presentation:**

**Lorinda Elizando**, 7777 East 38<sup>th</sup> Street, Tulsa, OK; no presentation made.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **ACCEPT** the Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2); subject to the action of the board being void should another outdoor advertising sign be constructed within 1,200 feet prior to this sign; for the following property:

**Lot 1, Block 1, FORD MOTOR CO TULSA GLASS PLANT, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No.21185-Impact Engineering and Planning**

**Action Requested:**

Variance of the parking requirement for a public school campus to permit a multi-purpose athletic facility addition (Section 1205). **Location:** 2906 East 41<sup>st</sup> Street

**Presentation:**

**David Reed**, 1831 East 71<sup>st</sup> Street, Tulsa, OK. and **Kevin Vanover**, 109 North 1<sup>st</sup> Street, Owasso, OK; Mr. Vanover stated currently on campus there are 554 parking spaces. The events in the athletic facility would not be held at the same time that school is in session so there is an overlapping of use. The softball facility is going to be relocated and an additional 25 parking spaces will be added for the softball facility.

**Interested Parties:**

**Bob LaBass**, Tulsa Public Schools, 3027 South New Haven, Tulsa, OK; stated Edison was built in two stages; the middle school was built in 1956, followed by the high school with the parking completed in stages.

**Thomas Hill**, 4214 South Columbia Place, Tulsa, OK; stated he has an issue with an access walkway that connects Columbia Place to the school, which walkway he would like to see permanently closed because it creates a traffic hazard and a pedestrian hazard during events.

**Jon McGrath**, 4139 South Florence Avenue, Tulsa, OK; stated Edison does not currently have enough parking to conduct business as it is. The lack of adequate parking is a quality of life issue and it is a safety issue.

**Mike Koch**, 4311 South Florence Avenue, Tulsa, OK; stated he is opposed to the Board of Adjustment granting a parking space variance to Edison for a new sports facility. He asked why an RS-1 zoned neighborhood should need to take on the Edison's parking burden for the commercial event center. Edison currently does not have enough parking spaces for the current facilities; they have special events held on Saturdays or at night, and the neighborhood deals with the overflow. Mr. Koch

presented pictures showing a multitude of cars parked throughout the neighborhood with one car in particular parked across the sidewalk and a truck parked in the grass that attended a Saturday school function. Mr. Koch stated the car parked across the sidewalk is actually parked in the main entrance into Edison. Mr. Koch stated he calculated the parking space requirements and it would need 1,108 parking spaces at a minimum, using a ratio of .923 parking spaces per seat, not the four seats per parking space the City uses for calculation. To alleviate the parking problem Mr. Koch proposed the additional parking spaces be built above the building, in a multilevel parking garage or underground. The current open grassy spaces could also be utilized as parking.

Mr. Cuthbertson stated that the parking ratio for athletic facilities is a function of the seating capacity plus the floor area of the facility, therefore, seating requires 300 for the new athletic center and the floor area requires an additional 71 spaces.

Mr. Van De Wiele asked Mr. Cuthbertson what the current number of required parking spaces is. He answered it would be 491 spaces and with the proposed facility, it would come to 862 spaces, which includes the new athletic facility and the existing facility.

**Dorothy Ellen Burgess**, 4247 South Columbia Place, Tulsa, OK; stated she takes issue with the statement "...no new parking is proposed with the development..."; however, on the site plan the area below the sidewalk does not currently exist. The proposed parking for that area backs up to four houses and there have never been cars or parking in that area, so screening would be required. Also, it has been stated that the access shown is typically closed during school and that is not the case since Tulsa Public Schools established its own security force; only since the construction trailer has been placed is the access now closed, at least temporarily.

Mr. Cuthbertson stated the statement of "no new parking" was an oversight and was his statement. It is inaccurate and he apologized to the Board and the audience. This is a small addition; it is a new parking lot within 25 feet of an R district, and there will be a requirement that a screening fence be constructed on the western boundary between the parking lot and the residential properties.

**Chip Atkins**, 1638 East 17<sup>th</sup> Place, Tulsa, OK; stated the geographical area of the school has grown immensely since it was built in 1956; the east and west lots were added in the late 1970's and 1980's and he suggests the hours of use of the new athletic facility be limited, and competitive events should not be held during school hours. If the school is held to this limitation there would be no traffic issue and no emergency vehicle access issue.

**Bob LaBass** stated that normally events are held after hours. He has also been speaking with Mark Brown with the Traffic Department, and there will be a counter installed to monitor the traffic flow on the side street. Mr. LaBass stated he will also check with the school regarding the opening and closing of the gate in that area, and have steps taken to cure the problem.



Mr. Boulden asked about the use of the athletic center, because the school already has a gym. He asked if the athletic center is to be considered a lot more than a gymnasium. Mr. Vanover stated the current gymnasium will become a P.E. gymnasium for the school and the new facility will be a sports center to support the football team, basketball team, and will have a locker room.

**Holly Svingleberg**, 4214 South Columbia Place, Tulsa, OK; stated the walkway is a safety issue now and if the proposed parking is placed next to the walkway, safety will be a bigger issue.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the parking requirement for a public school campus to permit a multi-purpose athletic facility addition (Section 1205); subject to the condition that the Board receive a modified site plan with no less than 600 parking spaces; subject to the further condition that the sidewalk access on the west side of the property that connects to South Columbia Place be fenced off and closed; finding that the proposed athletic facility will be located as shown on page 15.11 and the property will be utilized at non-peak times or different times than the general use of the existing school facilities which would result in a lesser number of parking spaces required than the 600 the Board has required. Finding that by reason of the 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:

**NW NE SEC 29-19-13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. Kevin Vanover** came forward and requested a clarification on the word "utilized" in the motion made by the Board. That word can be interpreted as being used in any form, such as, occupied by students while class is in session.

**Mr. Tidwell** left the room at 5:00 P.M.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Stead, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **RECONSIDER** the previously made motion on Case No. 21185.

Mr. Van De Wiele clarified his use of the word utilized to mean that it is unlikely regular school activities and athletic events will peak simultaneously.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Stead, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the clarified motion in Case No. 21185.

**Mr. Tidwell reentered the room at 5:04 P.M.**

\* \* \* \* \*

**Case No. 21186-Impact Engineering and Planning**

**Action Requested:**

Variance of the parking requirement for a public school campus to permit a multi-purpose athletic facility addition (Section 1205). **Location:** 1514 East Zion Street

**Presentation:**

**Kevin Vanover**, 109 North 1<sup>st</sup> Street, Owasso, OK; stated there had been a variance passed that required 875 parking spaces when the high school was reconstructed and that has been maintained. There was an existing field house that has been demolished to make room for the new field house. There will be no new activities and no new sports. The new facility does have more seats than the older facility. Originally there were 883 parking spaces and the lot has been restriped to now have 912 parking spaces. The overall intent is the same. The use is not changing from the existing use and it is a staggered-use facility.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the parking

requirement for a public school campus to permit a multi-purpose athletic facility addition (Section 1205). The Board has found that an older field house was removed and a new field house is proposed according to conceptual plan on page 16.6; finding that the 883 parking spaces have been restriped and the total parking spaces now available are 912; and the Board has found from other examples that the peak use of schools and athletic facilities on the same site generally do not peak simultaneously. In granting this variance these 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 1 BLK 1, LT 1 BLK 2, BOOKER T WASHINGTON PRT RSB CARVER HT 2&3 & TRENTON ARMS & PRT COOTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

\* \* \* \* \*

**Case No. 21147-A-Erica Dorwart**

**Action Requested:**

Appeal the determination of an Administrative Official in issuing a building permit (#242116, and #238036, and #233593). **Location:** 2249 South Troost Avenue

**Mr. White recused himself and left the room at 5:13 P.M.**

**Presentation:**

**Erica Dorwart**, 2255 South Troost Avenue, Tulsa, OK; stated that in the 1970's the City of Tulsa established residential districts and determined that only one single-family dwelling would be allowed on each lot. They also stated that if there was an existing use to be grandfathered, if the use was discontinued for three years or more the use would be disallowed. In this case the City of Tulsa permit office has allowed the homeowners next door to Ms. Dorwart to build a second dwelling on their RS-2 lot in spite of the zoning code. This happened by a deliberate and calculated series of permit applications that Ms. Dorwart is appealing today. Ms. Dorwart presented a third set of site plans that she says the dates have been redacted and the stove has been removed after the City of Tulsa advised them to do so. The second dwelling contains a kitchen containing a refrigerator, a sink, kitchen cabinets, room for a dining room, a complete bathroom, a bedroom which is calculated as a resting room on the plans, a closet called storage on the plans, and a living room called a cabana and a rec room. The second

dwelling has a separate entrance from the principal building and it includes an entrance on the south side. It has two windows on the south side and it is attached to a carport that is more than 400 sq. ft. in size. According to the code the definition of family is "a family living in a single dwelling" not across the road. When a member is across the driveway in the garage they are not part of the single family any longer under that definition.

Mr. Tidwell asked Ms. Dorwart to repeat the definition of family and she stated that under the code page 18.5 defines "one or more persons occupying a single dwelling". Ms. Dorwart stated that when someone is placed across the driveway in an unattached garage they are not family anymore as defined under the code.

Ms. Dorwart continued to say that she understands the Board of Adjustment previously agreed based on the representation from the City of Tulsa that so long as there is not a stove present, it is not a house, regardless of the fact that there is a kitchen, a dining room, a full bathroom, a bedroom, a closet and a living room.

Mr. Boulden stated that Ms. Dorwart has the older version of the definition of family, and presented the current version on screen.

Ms. Dorwart stated the Board of Adjustment has based their decision upon the representations of the City of Tulsa permitting officials that determined the stove to be the single factor that keeps this second house from being prohibited under the code. Ms. Dorwart stated she is confident that the drafters of the code in the 1970's thought there would not be a second house in an RS-2 zoning district so long as there was not going to be a stove within the building. Ms. Dorwart challenged the finding and the reliance on the City of Tulsa zoning permitting officials and she respectfully requested the deliberately staged permits be denied, and the alternative she respectfully requested that the condition of the second house not be used for rental property. Ms. Dorwart thought it was clear with the third set of site plans what is planned with respect to the 600 sq. ft. house that is now closer than three feet to Ms. Dorwart's lot line.

#### **Interested Parties:**

**Paddy Harwell**, 2249 South Troost Avenue, Tulsa, OK; stated that even now there are changes to plans. There are not two doors; the back portion is existing because it was from the first permit; and the structure is not closer than three feet to Ms. Dorwart's property line.

Mr. Van De Wiele asked Ms. Harwell why this structure was built under three different permits. Ms. Harwell stated that she was not a contractor. The project was started in July and was being built as the budget allowed. Throughout the construction there were discussions about doing things a little differently from the original plan, but the original intent of the addition has never wavered.

**Yuen Ho**, Building Plans Review Manager, City of Tulsa, 175 East 2<sup>nd</sup> Street, Tulsa, OK; stated stage permitting is done all the time. The few changes that have been made

were not dealt with previously because there was an appeal on this case. There has been no intention to hide anything on this project.

Ms. Stead asked Mr. Ho if there was any new information presented from the previous hearings, and Mr. Ho stated there was nothing new.

**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") to **DENY** the Appeal and uphold the determination of an Administrative Official in issuing a building permit #242116, #238036, and #233593 which pertains to Case No. 21147 and Case No 21147-A. The Board has heard again from the appellant and has heard no new information which would cause the Board to accept the appeal; for the following property:

**LT 12 N. 12 LT 13 BK 7, TERWILLEGGER HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. White** reentered the room at 5:35 P.M.

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**Case No. 21188-Mitch Dees**

**Action Requested:**

Approval to permit a sign to project into the Right of Way (Section 1221.C.14).

Location: 1542 East 15<sup>th</sup> Street South

**Presentation:**

**Mitch Dees**, 1542 East 15<sup>th</sup> Street, Tulsa, OK; no presentation was made.

**Interested Parties:**

**Chip Atkins**, 1638 East 17<sup>th</sup> Place, Tulsa, OK; stated the neighbors are worried about the proposed business being a smoke shop because the sign says "SMOKE". The other concern of the neighbors is the second floor being used for entertainment because they do not want entertainment. Mr. Dees stated there were no plans to have entertainment at this time.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Approval to permit a sign to project into the Right of Way (Section 1221.C.14); this approval is subject to a license agreement with the City of Tulsa. The proposed sign will be the same as the drawing submitted to the Board today, drawing #111710-03. This sign is shown to project ten feet above the sidewalk elevation as on page 19.7; for the following property:

**W45 LTS 1 & 2 BLK 4, ORCUTT ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

\* \* \* \* \*

**Case No. 21193-Maggie Rebelo**

**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). **Location:** 6959-A South Lewis Avenue

**Presentation:**

**Andy Bahlinger**, 5818 East 77<sup>th</sup> Street, Tulsa, OK; no presentation made.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **ACCEPT** the 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); subject to the action of the Board being void should another above referenced conflicting use be established prior to this liquor store; for the following property:

**PRT LT 2 & ALL LTS 3 & 4 BEG NEC LT 3 TH S496.95 W386 N420 E150 N76.95 E236 POB BLK 1, ABDO COMMERCIAL HGTS AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**OTHER BUSINESS**

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**NEW BUSINESS:**

None.

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**BOARD MEMBER COMMENTS:**

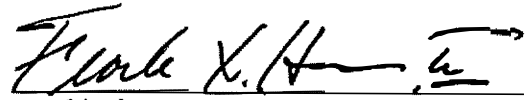
None.

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There being no further business, the meeting adjourned at 5:45 p.m.

Date approved: \_\_\_\_\_

11/11/11



Chair