

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 998  
Tuesday, March 24, 2009, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Chamber  
175 East 2<sup>nd</sup> Street

**MEMBERS  
PRESENT**

Henke, Chair  
Stead, Vice Chair  
Stephens  
Tidwell, Secretary  
White

**MEMBERS  
ABSENT**

**STAFF  
PRESENT**  
Alberty  
Cuthbertson  
Pyron

**OTHERS  
PRESENT**  
Boulden, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, March 19, 2009, at 9:57 a.m., as well as at the Office of INCOG, 201 W. 5<sup>th</sup> St., Suite 600.

After declaring a quorum present, Chair Henke called the meeting to order at 1:04 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 (White, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of March 10, 2009 (No. 997).

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**UNFINISHED BUSINESS**

**Case No. 20877**

**Action Requested:**

Variance of the requirement that illumination of a sign shall be of constant light to permit an LED element on a sign for a church in the AG district (Section 402.B.4); and a Variance of the minimum setback from a visible R district (Section 1221.C.2.c), located: 5415 East 101<sup>st</sup> Street South.

**Presentation:**

Mr. Cuthbertson informed the Board that the applicant had requested to continue this case until April 14, 2009.

**Comments and Questions:**

Ms. Stead asked Staff if this was the third continuance. Mr. Cuthbertson confirmed that this was the third continuance for this case. Ms. Stead asked if there was a time limit approaching. Mr. Cuthbertson said the Board has 90 days to take action on a case and the 90 days for this case will expire on April 29, 2009.

**Board Action:**

On **Motion of White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** this case until April 14, 2009, on the following described property:

LT 1 BLK 1, REDEEMER COVENANT CHURCH, City of Tulsa, Tulsa County, State of Oklahoma

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**NEW APPLICATIONS****Case No. 19865-A****Action Requested:**

Modification of a condition of approval (BOA-19865: a Special Exception to permit temporary outdoor sales and a Variance of the required setback from 100 ft. from the centerline to 50 ft.); to extend the time limitation, located: 6390 East 31<sup>st</sup> Street.

**Presentation:**

**Mark Rosenberger**, 20902 South Mingo, Bixby, Oklahoma. Mr. Rosenberger stated he was requesting an extension to the time limitation so he can sell produce at the site. Although the time limit expires in August 2009, he would like to proceed with obtaining the extension at this time.

**Interested Parties:**

**Jeff Platt**, 7980 Flagstone Street, Frisco, Texas. Mr. Platt is Director of Real Estate for Taco Bueno Restaurants. Mr. Platt was in attendance to see if, or how, this would affect the nearby Taco Bueno. Ms. Stead stated that Mr. Rosenberger had 178 days per calendar year to sell produce. Mr. Platt said he did not have any problems with the request.

**Comments and Questions:**

Mr. Tidwell asked if the 100 ft. setback was in the original request. Mr. Alberty informed the Board that the 100 ft. setback was an ordinance requirement and was not a special condition. The Board noted there had been no complaints on this property.

**Board Action:**

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a modification of a condition of approval (BOA-19865: a Special Exception to permit temporary outdoor sales and a Variance of the required setback from 100 ft. from the centerline to 50 ft).; to extend the time limitation for a period of five years from the date of August 10, 2009, on the following described property:

PT EA LOTS 2 & 3 BG 50' W MOST NLY NE COR LT 2 DUE S 405' TO PT 25' S N L LOT 3 W 300' N 405' E 300' POB BLK 1, SHERIDAN CIRCLE RESUB PRT B1 & B7 LORRAINE HGTS, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20882**

**Action Requested:**

Minor Special Exception to reduce the front yard setback from 25 ft. to 22.2 ft. (Section 403); and a Special Exception to permit a carport in the required front yard (Section 210.B.10); to permit an existing dwelling and carport structure, located: 2811 South Cincinnati Avenue.

**Presentation:**

**Dan Martin**, 2142 South Cincinnati Avenue, Tulsa, Oklahoma. Mr. Martin is requesting special exceptions to permit two elements that exist and to clear title subject to a transaction.

**Interested Parties:**

There were no interested parties who wished to speak.

**Comments and Questions:**

Ms. Stead stated it was her understanding that this structure was established around 1930 and that the footprint had not changed. She noted that Mr. Martin had come before the Board at great cost to clear this Minor Special Exception and primarily for a carport. She noted that all carports should be approved by the Board.

**Board Action:**

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Minor Special Exception to reduce the required front yard setback from 25 ft. to 22.2 ft. (Section 403); a Special Exception to permit a carport in the required front yard (Section 210.B.10); to permit an existing dwelling and existing carport structure. The Board finds that parts of the dwelling were constructed in the 1930s. In granting the Special Exceptions, the Board finds that these Special Exceptions 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, on the following described property:

LT 15 BLK 21, SUNSET TERRACE, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20669-A**

**Action Requested:**

Amendment to a condition of previously approved event (Special Exception to allow an outdoor special event in the CH, OL and RS-3 zoning district, a Variance to permit the special event to occupy required parking, and a Variance of the setback for a tent from an RS zoning district) to extend the one year time limitation, located: East of the Southeast corner of South Peoria Avenue and East 33<sup>rd</sup> Street.

**Mr. Henke recused himself from this case.**

**Presentation:**

**J.L. Lewis**, 1120 East 38<sup>th</sup> Street, Tulsa, Oklahoma. Mr. Lewis is the owner of Leon's on the Restless Ribbon, a new restaurant in Brookside. He stated he had put on this event over the past six years for the previous owners so he is familiar with the event. He informed the Board that this event is well attended and that beer will be sold in tents. Ms. Stead asked Mr. Lewis if he felt the Board's recommendations were followed last year. Mr. Lewis confirmed that as an employee of the previous owner, he was aware that additional security was hired (five Tulsa Police officers and two Oklahoma Highway Patrol officers). He added that from 11 p.m. to 1 a.m., the employees swept the neighborhood because they were aware that trash accumulation was a concern of the neighbors. Ms. Stead asked Mr. Lewis to state what his hardship was. Mr. Lewis said this was a family event.

**Interested Parties:**

**Herb Beattie**, 3474 South Zunis Avenue, Tulsa, Oklahoma. He was there to represent the Brookside Homeowners Association. He stated that he had come before the Board last year to protest this event. He did congratulate the restaurant for having additional security and for cleaning up the neighborhood last year. He informed the Board that he felt this was not a neighborhood or family event. He went to the event around 7 pm and did not see any families. What he saw was an outdoor drinking event. The traffic and the lack of parking created a terrible problem. The music was loud and went on until 2 a.m. This year the event is scheduled for a school night and would cause all kinds of problems. Mr. Beattie felt this event should be held in the central business district. He felt there was no hardship. Ms. Stead asked Mr. Beattie if he was aware that a permit had been issued by the City of Tulsa for two tents in the same area. Mr. Beattie said he did not think a tent could be erected in a parking lot without the Board's approval. Ms. Stead said she had the same understanding.

**Applicant's Rebuttal:**

Mr. Lewis stated that he has moved the music back into the parking lot and the speakers are facing toward the building so the music is going away from the neighborhood. He stated that because he is a resident of Brookside, he understands the concerns of the neighborhood association. This year Mr. Lewis is partnering with Cherokee Recycling to pick up all aluminum cans; he will turn off the music by 9:00 or 9:30; and, he will donate a portion of the profits to the Muscular Dystrophy Association to help in their fight against ALS. Ms. Stead stated she still had not heard a hardship. Mr. Lewis said the odd-shaped parking lot was his hardship.

**Comments and Questions:**

Ms. Stead stated this applicant came before the Board voluntarily at great expense and that she felt all planned outdoor events should come before the Board for approval. Mr. White asked whether Mr. Lewis had contacted the Tulsa Police Department regarding security and other elements for this event. Mr. Lewis said he had contacted them with regard to his intent but was waiting until the results of the meeting before finalizing plans. Mr. White asked Mr. Lewis if he had met with the neighborhood to discuss this event. Mr. Lewis said he had not met with the neighbors. Mr. White stated he felt the Board should have a plan that has been reviewed by the Tulsa Police Department ("TPD") and by the neighborhood with all the details in writing. He added that when the Board approved the event last year, it was a test to see if the restaurant would comply with the Board's recommendations, which they did to a great degree. The noise, however, was a major problem and that can be addressed this year because TPD has the sound meters they can use to see if there are any problems. Mr. White suggested that since the next Board of Adjustment meeting is in three weeks that this case be continued until that time to give Mr. Lewis, Mr. Beattie and Sergeant Bain time to work out a plan that is agreeable to all parties. Ms. Stead said she realized the Board cannot address two cases at once but the Board is aware that a permit was issued for two tents that will be next door to Mr. Lewis' establishment. This encompasses the entire block from 33<sup>rd</sup> to 34<sup>th</sup> Street. Mr. White stated the permit is for the tents and nothing has come before the Board for an event. Mr. Boulden reminded the Board that the variances mentioned are not before the Board because the variances are still in place. The only thing before the Board is the extension of the one year time limitation for the event. Mr. Tidwell stated that Mr. Beattie noted that the restaurant did a better job with security so the major issue is the music.

**Interested Parties Rebuttal:**

Mr. Beattie stated that if there is a meeting with Mr. Lewis, the neighborhood and TPD, he suggested that someone from the permit office attend.

**Applicant's Rebuttal:**

Mr. Lewis stated that he has lived in Brookside for eight years and that he will join the Brookside Neighborhood Association as soon as possible.

**Board Action:**

On **Motion of White**, the Board voted 4-0-1 (White, Stephens, Stead, Tidwell "aye"; no "nays"; Henke "abstained"; no "absences") to **CONTINUE** this case until April 14, 2009 to give the applicant time to meet with the Tulsa Police Department, the neighborhood and any other interested parties to work out a plan to present to the Board on how this event will be conducted, on the following described property:

LT 4, LT 5 & the N 18.75 LT 12, BLK 1, OLIVERS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20883**

**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), located: 10810 East 45<sup>th</sup> Street.

**Presentation:**

**Sam Stokely**, 10111 East 45<sup>th</sup> Place, Tulsa, Oklahoma. Mr. Stokely said the survey is in a radius that includes both sides of the highway.

**Interested Parties:**

There were no interested parties who wished to speak.

**Comments and Questions:**

Ms. Stead asked Mr. Boulden if this case had originally been submitted before January 1, 2009 and if the Board was to consider this request under rules that were in effect before January 1. Mr. Cuthbertson answered that this was not a digital board so the rule changes did not apply.

**Board Action:**

On **Motion of White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **ACCEPT** based upon the facts in this matter as they presently exist, the applicant's verification of spacing between outdoor advertising signs subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

PRT LTS 2 & 3 BEG 284.94 NW SECR LT 2 TH NE 365.88 NWLY 35 NE 110 NW 71.76 TH CRV RT 78.54 NE 132.06 NW92SW21.10 TH CRV LF 189.56 W10 TH CRV RT 177.93 NW 135.27 SW 250.67 SE 853.79 POB BLK 2, TOWNE CENTRE II, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20884**

**Action Requested:**

Variance of the 75 ft. building setback requirement from an abutting O district (Section 903), located: 11919 East Pine Street.

**Presentation:**

**Lou Reynolds**, 2727 East 21<sup>st</sup> Street, Tulsa, Oklahoma. Mr. Reynolds represents New Holland Tractor Company. This case came about when a wash building at the back of the property caught on fire. The wash building was 50 ft. from the adjacent OL property line. A building permit was filed and it was denied because of the OL property to the east. When Mr. Reynolds saw the survey, he informed his client that the entire building was within 12 ft. of the property line. The building was built in 1961 and the property was platted in the county and zoned AG. The wash building was there before 1961. New Holland wants to rebuild the wash building and visited with the adjacent property owner which is the AFL-CIO who stated they do not have a problem with this request.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **Motion of Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the 75 ft. building setback requirement from an abutting O district (Section 903), finding that this property was developed in 1961 and originally contained a wash building and the setback requirement at that time was 10 ft. The wash building has since burned and there is a need to replace it. In granting the Variance, the Board finds 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 variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

ALL BLK 1, KELLY TRACTOR & IMPLEMENT CO, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20885****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 school in the RS-3 district (Section 402.B.4), located: 10100 East 61<sup>st</sup> Street.

**Presentation:**

**Michelle Bergwall**, 8506 East 61<sup>st</sup> Street, Tulsa, Oklahoma. Ms. Bergwall stated Union Public Schools is requesting a Variance to permit a two color LED sign so that the school can communicate with its students and parents. The school is in the RS-3 district and everything bordering the school is zoned OL or IL.

**Comments and Questions:**

Ms. Stead asked if the new sign will be in the same place as the current sign. Ms. Bergwall confirmed that the current sign will be torn down and replaced with the LED sign. Ms. Stead asked if the sign will be taller than 20 ft. Ms. Bergwall said the sign would be 22 ft. tall. Ms. Stead said the sign could not be taller than 20 ft. because no relief was requested. Ms. Bergwall said the school would lower the height from 22 ft. to 20 ft. Ms. Stead said the Board does not approve as a rule running lights or flashing lights in a residential district. Ms. Stead inquired as to the size of the letters in the LED sign. Ms. Bergwall said the letters were about one foot high.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** 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 school in the RS-3 district (Section 402.B.4) noting specifically that this sign shall be no taller than 20 ft. from the average ground elevation to the top of the sign and stating that sections of Section 1221.C.2 particularly "b" which states "No such sign shall be located within twenty (20) feet of the driving surface of a street. The twenty (20) feet shall be measured in a straight line from the nearest point on a sign structure to the nearest point of the street curb, or edge of the traveled roadway marked or understood as such." Section 1221.C.2.d - "No such sign shall exceed an illumination of seventy (70) foot candles measured at a two (2) foot distance." Section 1221.C.2.e - "No such digital sign shall display an illuminative brightness exceeding five hundred (500) NITs at any time between one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise or six thousand five hundred (6,500) NITs between one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset." Section 1221.C.2.f - "No such digital sign shall display an illuminative brightness of such intensity or brilliance that it impairs the vision or endangers the safety and welfare of any pedestrian, cyclist, or person operating a motor vehicle." Section 1221.C.2.g - "No



such digital sign shall resemble or simulate any warning or danger signal, or any official traffic control device, sign, signal or light.” Section 1221.C.2.h – “No such digital sign shall be permitted to operate unless it is equipped with: (1) a default mechanism that shall freeze the sign in one position or static message if a malfunction occurs; and (2) notwithstanding paragraph 1221.C.2.e., a mechanism able to automatically adjust the display’s illuminative brightness according to natural ambient light conditions by means of a light detector/photo cell by which the sign’s brightness shall be dimmed.” This sign shall not contain blinking, flashing or twinkling lights and shall be limited to horizontal scrolling. In granting this Variance, the Board finds 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 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, finding that this total property contains approximately 580,000 sq. ft., on the following described property:

LT 1 BLK 1, RE-UNION, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20368-A**

**Action Requested:**

Minor Special Exception to amend a previously approved site plan to permit a 57 ft. stand alone statue, accessory to an existing place of worship, located: 16933 East 21<sup>st</sup> Street South.

**Presentation:**

**Richard Holmes**, 5918 East 31<sup>st</sup> Street, Tulsa, Oklahoma. Mr. Holmes represents the Tam Bao Buddhist Temple. He introduced Xuan Pham who is a representative from the Temple.

**Xuan Pham**, 9114 South Braden Place, Tulsa, Oklahoma. She summarized the project noting that the statue will be 49 ft. in height atop an 8 ft. base. Ms. Pham has visited several Buddhist temples in the United States and in Vietnam. She stated these temples have a statue of Quan Am on their property. It is a place for all Buddhist petitioners to go to find comfort, peace and compassion whenever they are in despair. Quan Am is well known for listening to the petitioners’ problems and blessing them with miracles. Quan Am plays a vital role in Buddhists’ spiritual life that her image has been reproduced in many sizes and forms. The Tam Bao Buddhist Temple was established in 1993 in the current location. On Sundays, there are religious services in English and Vietnamese. Ms. Pham did not believe the statue would create any problems for the neighbors. She felt the statue would beautify Tulsa.

**Interested Parties:**

**Carole Carner**, 14139 East 19<sup>th</sup> Place, Tulsa, Oklahoma. Ms. Carner stated she had lived in the East Tulsa community for 32 years. She has been active in the community, schools and city affairs. She stated she is not in favor of the 57 ft. statue. She felt the request was not within the recommendations of the Comprehensive Plan for the City of Tulsa or the recent PLANiTULSA meetings. She thinks a statue of this proportion would not be fruitful for or would impede the planned progress in East Tulsa. Ms. Stead asked Ms. Carner how the statute would impede progress when the temple already exists. Ms. Carner stated that on the site are statues that are very well maintained but she is concerned over the height of the proposed statue. Ms. Stead stated that the tent structures over the former Eastland Mall are at least 65 or 75 ft. tall. She asked Ms. Carner if she was familiar with Carl Smith Ballpark because every light pole there is 70 ft. tall and there are approximately five light poles per field which would total 45 lights plus those around the concession stand. Ms. Stead added that all the look-alike Public Service Company of Oklahoma concrete poles exceed 60 ft. Mr. Henke asked Ms. Carner to confirm that it was the height of the statue and not that the statue will be a Buddhist statue. Ms. Carner said she did not think a statue of Christ would be approved if it came before the Board. Ms. Stead asked Ms. Carner if she was aware that the Oral Roberts University prayer tower is 200 ft. tall, Boston Avenue United Methodist Church is 256 ft. tall, the Golden Driller is 76 ft. tall and the praying hands at Oral Roberts University are 60 ft. tall and that the Quan Am statue will only be 57 ft. in height. Ms. Stead stated that the Board is generic when it comes to religion. Mr. White asked Ms. Carner if she was aware that there are no height requirements in the AG districts. Ms. Carner asked if someone could build as high as they wanted. Mr. Cuthbertson stated that there is no "zoning" height restriction in an AG district. Mr. White stated he attended the same PLANiTULSA meetings Ms. Carner mentioned and the area discussed in these meetings does not go as far east as the location of the Tam Bao Temple. Mr. Henke asked again about Ms. Carner's concerns about the building of the statue. Ms. Carner said she did not think the statue would be beautiful.

**Clyda Stiles**, 1812 South Lynn Lane, Tulsa, Oklahoma. Ms. Stiles said she did not receive notification of the application and had just found out about the meeting. She stated when she and her husband bought their property in 1996 that INCOG told them that nothing could be built behind them. Ms. Stiles said the subject property backs up to her property and she wants to see trees not a statue. Mr. Henke asked Ms. Stiles to use the laser pointer to show the Board the location of her property in relation to the subject property. Mr. White said Lynn Lane does not show up on the slide. Ms. Stead asked Staff about the notices sent out regarding this case. Mr. Cuthbertson responded that this was advertised as a minor special exception to amend a site plan so notices were to abutting property owners only but even if notices were sent in a traditional manner Ms. Stiles would not have received a notice because she lives more than 300 ft. from the subject property.

**Dennis Troyer**, 12811 East 13<sup>th</sup> Place, Tulsa, Oklahoma. Mr. Troyer is councilman for District 6. He opposes this structure for a number of reasons. He feels it does not fit in the Comprehensive Plan. Mr. Troyer said representatives from Tam Bao Buddhist Temple did not attend the PLANiTULSA meetings and had they been there, the attendees would have then known about the plans to erect a statue. He said there are no plans for a five-story structure in the East Tulsa Neighborhood Plan 1 & 2 approved by the Tulsa Metropolitan Area Planning Commission and Tulsa City Council. He stated that although the area is zoned AG does not mean there are no homes in the area. Most homes in this area are built on 3 to 5 acre lots. Most of the people that live in the area are opposed to the statue being built. He did find two people who approved of the project. Ms. Stead said she did not see the names of the people opposed to the project on the list he distributed to the Board members. Mr. Troyer said he would address the list later in his presentation. He said 21<sup>st</sup> Street is a two lane road in this area and during ball season, this road becomes very congested and he felt the statue would be a distraction to drivers. Mr. Henke asked Mr. Troyer if he felt the statue would be a distraction because people would want to go look at it. Mr. Troyer said that the intent was to make this a tourist attraction so this is why he thinks it would be a distraction. Mr. Troyer said Harvey Young Airport is one and a half miles from the subject site. He took a petition to Harvey Young Airport and had the pilots sign if they were opposed to the building of the proposed statue. There were 31 names on the petition. Mr. Stephens asked Mr. Troyer if the statue would be in the flight pattern. Mr. Troyer said that he called the Tulsa International Airport tower and spoke to Kevin Hagar who referred him to the Dallas-Fort Worth Federal Aviation Administration ("FAA"). The FAA referred Mr. Troyer to their official website to find out if any Temple representatives had contacted the FAA about their structure. The FAA must be notified if a structure is to be built within a five mile radius of an airport. No application from the Temple was found. The FAA directed Mr. Troyer to the radius tool on their website. The radius tool allows you to enter the longitude and latitude, the site elevation and then the horizon data will automatically be entered. Once you have entered the data, the radius tool will let you know if you exceed the criteria. Mr. Troyer spoke to Linda Steele of the Southwest Regional Obstruction Group of the FAA in Dallas who stated the Temple should have notified Tulsa International Airport and Harvey Young Airport of their plans to build the statue. The FAA stated that the City of Tulsa should have a requirement that any structure that is to be built of that height (five stories) within a five mile radius of an airport should notify any airport in the area. Mr. Stephens said he had worked with clients who have been in the flight pattern of an airport and they had to get FAA approval. Mr. Stephens said the applicant could contact the FAA just as Mr. Troyer did. Mr. Stephens said being within a radius of an airport and being in the flight pattern are two different things. Mr. Troyer felt that calling this a statue is misleading because the applicant has stated the statue is a deity. He stated the prayer tower and praying hands at Oral Roberts University are religious symbols and not deity.

**Applicants Rebuttal:**

Mr. Holmes submitted that the Comprehensive Plan does not affect this and is not a part of this usage and is not in the bounds of the Plan. The applicant is not intending to create more traffic or create a tourist attraction that would be any kind of a detriment to people traveling down 21<sup>st</sup> Street. The applicant will take any kind of action to comply with FAA regulations. Mr. Holmes added that the U.S. Constitution requires there be a separation of church and state. He asked that the Board continue in its generic consideration of worship.

**Comments and Questions:**

Ms. Stead stated that the Board has to be generic in religious matters. She suggested that the Board approve the Minor Special Exception subject to FAA approval. Mr. Tidwell stated he felt that due to the size of the statue that it would be too close to 21<sup>st</sup> Street which is very narrow and only two lanes at this location. Note that according to the site plan, the statue would be 300 ft. from 21<sup>st</sup> Street.

**Board Action:**

On **Motion of Stead**, the Board voted 4-1-0 (White, Henke Stephens, Stead "aye"; Tidwell "nay"; no "abstentions"; no "absences") to **APPROVE** a Minor Special Exception to amend a previously approved site plan to permit a 57 ft. stand alone statue, accessory to an existing place of worship per plan submitted on page 9.7 and conditioned on the applicant acquiring approval from the Federal Aviation Administration. In granting a Special Exception, the Board finds that 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, on the following described property:

LT 1 BLK 1, TAM-BAO BUDDHIST TEMPLE, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20892**

**Action Requested:**

Minor Special Exception to reduce the required front yard from the centerline of East 33<sup>rd</sup> Place from 50 ft. to 45 ft. (Section 403), located: 104 East 33<sup>rd</sup> Place.

**Presentation:**

John Delgado, P.O. Box 1741, Owasso, Oklahoma, 74055. Mr. Delgado represents the homeowner who wants to replace the existing carport with a new one.

**Comments and Questions:**

Ms. Stead noticed in the site plan that the Board is being asked to approve a new carport. She stated it is her understanding of the Zoning Code that a special exception is required for a new carport and this has not been advertised to the neighborhood. She asked if the Board is required to notify the neighborhood. Mr.

Boulden stated the requirement for a special exception is when the carport is built in the required front yard. He said in this case, the applicant is asking for a variance of the required front yard.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **Motion** of **White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Minor Special Exception to reduce the required front yard from the centerline of East 33<sup>rd</sup> Place from 50 ft. to 45 ft. (Section 403). In granting the Special Exception, the Board finds that 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, on the following described property:

BEG 60W OF NEL TH W83 SLY 141.27 TO SL 127W OF SECR E67 N140 POB LT BLK 1, BURGESS ACRES ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 20899**

**Action Requested:**

Minor Special Exception to permit a 5 ft. reduction of the 35 ft. required front yard in the RS-1 district (Section 403); to permit residential construction, located: 3030 South Utica Avenue.

**Presentation:**

**Philip Doyle**, 2616 East 14<sup>th</sup> Street, Tulsa, Oklahoma. Mr. Doyle said the current house will be demolished and a new house will replace it.

**Comments and Questions:**

Ms. Stead asked if any part of the new house will be two stories. Mr. Doyle said the majority of the house will be one story and only a portion of the garage will be one and a half stories.

**Interested Parties:**

There were no interested parties who wished to speak.

**Board Action:**

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Minor Special Exception to permit a 5 ft. reduction of the 35 ft. required front yard in the RS-1 district (Section 403); to permit residential construction per site plan on page 11.7. In granting the Special Exception, the Board finds that 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, and as explained by the applicant and indicated by the architectural rendering, on the following described property:

LT 1 LESS W25 & N25 LT 2 LESS W25 N25 BLK 3, AVALON PLACE, City of Tulsa, Tulsa County, State of Oklahoma

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### **NEW BUSINESS**

**Sam Stokely**, 10111 East 45<sup>th</sup> Place, Tulsa, Oklahoma. Mr. Stokely informed the Board that at the February 24, 2009 meeting Case 20859 and Case 20856 were heard and there was no opportunity given to interested parties to speak. He felt that to have a meeting and not recognize any interested parties appeared to go against the rules since public notices were made. He requested that Case 20859 and Case 20856 be put back on the agenda for the next meeting. These cases were for verification of spacing by Whistler Sign Company. Ms. Stead asked Mr. Stokely if he had filed a lawsuit and he stated that he had filed appeals but has dismissal letters ready to submit.

Mr. Boulden informed the Board that Mr. Stokely's request could not be considered as New Business because it was not on the agenda. The Board requested that Mr. Stokely meet with Staff to get his request placed on the agenda for the next meeting.

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### **BOARD MEMBER COMMENTS**

Ms. Stead requested a new zoning book. She noted that special exceptions for special events are not coming before the Board. She stated there is a problem in Brookside when there are several Cinco de Mayo celebrations. She said part of the problem is a permit is issued for tents while there is an ongoing case before the Board where the neighborhood has been notified. One person pays for a permit and another person requests permission to come before the Board. Mr. Henke stated he felt it was premature to make judgment without having all the facts. Mr. Alberty explained that there are two ways the Board of Adjustment gets applications. One is volunteered by the owner/applicant or when the owner/applicant has been denied a permit. The Board has no control of the Permitting Office with regard to their determination and interpretation of the Code on how permits are issued.

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There being no further business, the meeting adjourned at 2:47 p.m.

Date approved: 4/14/09

Handwritten signature in blue ink, appearing to read "Frank X. Hernandez".

Chair