

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1054
Tuesday, August 23, 2011, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

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

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, August 17, 2011, at 3:57 p.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.

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

MINUTES

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Stead, Van De Wiele, White "aye"; no "nays"; Tidwell "abstaining") to **APPROVE** the **Minutes** of the August 9, 2011 Board of Adjustment meeting (No. 1053).

UNFINISHED BUSINESS

21295—Andrew Shank

Action Requested:

Variance of the spacing requirement between outdoor advertising signs from 1,200 ft. (Section 1221.F.2); a 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) and a Verification of the spacing requirement for a

digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10). **Location:** NE/c of Highway 75 and West 71st Street

Presentation:

Andrew Shank, 2727 East 21st Street, Suite 200, Tulsa, OK; stated his client has requested a variance between traditional outdoor advertising signs along the same side of the highway from 1,200 feet as the code requires down to approximately 1,100 feet. By statute and Tulsa ordinance the Board has the power to grant a variance from the terms of the zoning code whenever it will not cause substantial detriment to the public good or impair the spirit, purpose or intent of the code or comprehensive plan and by reason of exceptional circumstances peculiar to a particular property. In this case, literal enforcement of the terms of the code results in a necessary hardship, and the hardship to the client would be the location of the sign. Under zoning code only a handful of zoning districts are where you can locate outdoor advertising signs and within those districts the signs must be within a freeway sign corridor. The freeway corridor is 400 feet on either side of the right-of-way along the highway. There is an existing sign that is outside the freeway corridor but is approximately 1,109 feet away from the proposed sign of today's request. The intersection of Highway 75 and 71st Street, due to the topography, a person cannot see the sign from 71st Street until he/she is on the 71st Street exit eastbound and crests the hill. Originally this request was to be heard by the Board at the August 9th meeting and a continuance was requested because the engineer missed the existing sign due to the topography. Because the code spacing section does not clarify that signs outside the freeway corridor can be excluded there is ambiguity, causing his client to face an additional hurdle of being spaced 1,200 feet from a sign that is not visible from Highway 75 facing two different directions. The proposed sign would face north and south and the existing sign faces east and west thus the ambiguity of the code causes the hardship.

Mr. Van De Wiele asked Mr. Shank if, according to the survey that had been submitted, there were going to be three signs in the subject area. Mr. Shank stated there would be three signs located in the area but they will not be closer than 1,200 feet apart along the freeway sign corridor.

Mr. Van De Wiele asked Mr. Swiney if the code was clear or ambiguous as to which signs need to be spaced 1,200 feet apart; is it for all outdoor advertising signs. Mr. Swiney stated the code is ambiguous because it is stated "within the corridor facing the same direction" and the existing sign would be facing a different direction from the proposed sign.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-1-0 (Henke, Tidwell, Van De Wiele, White “aye”; Stead “nay”; no “abstentions”) based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign to **ACCEPT** the requests for a 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) and a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10), with the exception of an already existing sign 1,109 feet facing to the east of the proposed sign.

On **MOTION** of **WHITE**, the Board voted 3-2-0 (Tidwell, Van De Wiele, White “aye”; Henke, Stead “nays”; no “abstentions”) to **APPROVE** the request for a Variance of the spacing requirement between outdoor advertising signs from 1,200 ft. (Section 1221.F.2), finding that the offending sign that is less than 1,200 feet is an older sign not constructed in the current sign corridor and it is at an elevation significantly lower than the proposed sign and it faces a different direction than the proposed sign. The variance to be granted would be limited strictly to the one existing sign. finding 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; all for the following property:

**PRT LT 2 BEG 28.81NW SWC RESERVE A TH NW APR 191.19 NE193.11 NE40
CRV RT APR 69.68 SW366.77 SE APR 327.07 E265.77 POB BLK 1, OLYMPIA
MEDICAL PARK II, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

21296—Andrew Shank

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) and a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10). **Location:** North of the NE/c of Highway 75 and West 71st Street

Presentation:

Andrew Shank, 2727 East 21st Street, Suite 200, Tulsa, OK; stated the survey he submitted, Exhibit 3.5, shows this sign is more than 1,200 feet from any other outdoor

advertising sign on the same side of the highway and any other digital sign on the opposite side of the highway.

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”) based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign to **ACCEPT** the requests for a 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) and a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10); for the following property:

LT 2 LESS BEG 28.81NW SWC RESERVE A TH NW191.19 NE193.11 NE40 CRV RT 195.56 N139.75 W206 S25 W191.72 SE702.47 E265.77 POB BLK 1, OLYMPIA MEDICAL PARK II, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21297—Andrew Shank

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) and a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10). **Location:** North of the NE/c of Highway 75 and West 71st Street

Presentation:

Andrew Shank, 2727 East 21st Street, Suite 200, Tulsa, OK; stated the survey he submitted, Exhibit 4.5, shows this sign is more than 1,200 feet as measured on the same side of the highway pole to pole from any other outdoor advertising sign, as well as, 1,200 feet from any digital outdoor advertising sign facing the same traveled way on the same side of the highway.

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”) based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign to **ACCEPT** the requests for a 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) and a Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10); for the following property:

**PRT NE SW BEG NEC SW TH S APR 464.78 SW371.74 SE13.47 CRV RT 370.40
NW60 CRV LF 306.90 NW85 SW60 SW352.01 W APR 135.52 NW55.10 NW APR
145.97 N APR 424.05 NE77.66 N65.62 NW77.66 N53.91 E APR 992.05 POB SEC 2
18 12, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

21302—Kaveh Adib-Yazdi

Action Requested:

Special Exception to permit Auto Detailing (Use Unit 17) in the CS district (Section 701). **Location:** 2204 East 15th Street

Presentation:

John Moody, 6004 South Marion Avenue, Tulsa, OK; stated he represents the applicant for this request, Amir’s Persian Rugs. Amir’s Persian Rugs has been at this location since 1977, and have always been a good neighbor. The special exception request grew out of their need and desire to provide services compatible with services already being provided by their company as a means of continuing growth and employment in face of the steep decline in the market of expensive Persian rugs. During their years at this location one of the services provided to the public was to clean this type of rug which does require professional cleaning and care. There is an area inside of their building to extract water from the rug that is used to clean the rug and there is a drying room for the rugs. Due to a decrease in the business a limited car detailing service was added to the site. The detailing is limited to small trucks or cars and this detailing does not involve any power washing detergent, chemicals or soap; their requirement is for the customer to have the vehicle washed elsewhere so when the car arrives, they use a power washer to rinse the dust from the vehicle but there is no soap or detergent used. This is the same power washer process they utilize when they wash the Persian rugs. The next step in the car detailing process is all by hand sprayers and application. The products used in the detailing of the cars are water, high gloss finishing, and the cleaning product, which are all environmentally green products applied by hand. No commercial car wash equipment is used in the operation.

Carpeting inside the car is cleaned in two different ways; the car mats are cleaned on the inside if there are solvents used, otherwise, they are taken out of the car and rinsed off and then they are dried inside the building; the carpeting of the car is cleaned by hand and then a power vac is used. The only time the power washer and the air compressor are used is when the car is rinsed and when the car is blown out. The total time to detail an automobile is four hours, during which time, approximately 20 minutes utilizes the power equipment. There are only two automobiles cleaned daily so that means less than an hour per day is the power equipment being used. The major objection of the neighborhood is noise created by the power equipment. Mr. Adib-Yazdi then hired Mr. John Shadley, one of the foremost sound engineers in the United States, who has retired, lives in Tulsa, works at Tulsa University and performs consulting work. He has an extensive background in sound modifications and in architectural sound engineering. Mr. Shadley came to Amir's Persian Rugs with professional sound measuring equipment and measured the ambient noise levels, the noise operation levels, and where the most noise would be generated depending on where the equipment was located. Based on the actual measurements taken by Mr. Shadley, by placing the equipment on the north side of the building when it is in operation the sound that is generated by the use of the equipment will not exceed or generate sound decibel levels that exceed the same level as the ambient noise level that exists and is generated in the area by the passing of automobiles, trucks, etc. on 15th Street or in that area. So what is being said is the auto detailing equipment and function would not generate or exceed the ambient noise level that exists in the neighborhood, and Mr. Shadley's report has been provided to the Board.

Mr. Moody stated on the southeast corner of the property there is a concrete retaining wall with shrubbery. His clients have agreed, even though the property immediately south is zoned OL and there is not a statutory requirement, to erect a six foot tall solid or wooden screening fence all along the southeast portion of the retaining wall so it will screen everything to the south. In addition, Mr. Shadley says this will reduce any decibel levels that go southward into the neighborhood. His clients also use a mobile screen along the east side of the property extending from the concrete wall, approximately 30 feet to the north, so there will be a total visual screening of the automobiles when they are performing the detail operation. So there would be no visual impact on the neighborhood from this operation. The hours of operation would be limited from 9:00 A.M. to 6:00 P.M., Monday through Saturday and there would be no more than two cars per day.

Mr. Moody stated the City of Tulsa has recently adopted a new Comprehensive Plan which specifically designates this property and the surrounding property, as a Town Center. Town Center has a specific meaning and designation in the Comprehensive Plan. There are basically three categories of Centers, other than downtown; those are regional centers, town centers and neighborhood centers. A neighborhood center is simply small scale one- to three-story mixed use areas intended to serve nearby neighborhoods with retail, dining, and services. Town Centers are medium scale one- to five-story mixed use areas intended to serve a larger area of neighborhoods with retail, dining, services, and employment. It is specifically is intended to encompass a

broader, larger, more growing types of enterprises or businesses that also encourage employment. There is also another designation that stipulates different types of land uses. The subject property is within an area that is specifically designated as Growth and Stability. That means growth is desired but what is not wanted are big wholesale changes. That, in essence, means the uses that are being proposed by the special exception request does not violate the Comprehensive Plan. By eliminating anything that could be perceived as injurious to the neighborhood, i.e., by using objective concrete criteria standards which are screening fences, the mobile screening fence while cars are being detailed, the specific placement of the equipment while in operation, the limitation of the decibels produced by the equipment, the limitation of the hours of operation, number of employees, everything has been done the is humanly possible to remove anything that can be perceived as injurious to the neighborhood. Mr. Moody thinks the client meets the spirit and intent of the zoning code clearly because the client meets everything in the Comprehensive Plan's requirements.

Mr. Moody stated that the subject property is zoned CS, which is shopping center or commercial, and it is important to have this business continue to operate within the spirit and intent of the code. Should this business, for any reason, not be sustained over a period of time or fail the property could go on the market as a strip shopping center, an ice cream store generating traffic, or any number of uses could placed on the property without the Board of Adjustment approval. So in Mr. Moody's opinion, the continuation of this property as Amir's Persian Rugs is clearly within the spirit and intent of the zoning code being in the CS district. The definition of a neighborhood can be anything from two blocks to five miles; there is no formal definition in the zoning code as to how large a neighborhood is. This area encompasses everything in the area around 15th and Lewis; there is CH zoning adjacent to the Gillette neighborhood, north of 15th Street and on the east side of Lewis. Should the Office Depot go out of business, a full-scale commercial car wash could be built on the that property without the Board of Adjustment approval, because those uses are possible there without the Board of Adjustment approval Mr. Moody thinks this is the neighborhood also.

Interested Parties:

Before Mr. Shadley started speaking, Mr. Van De Wiele stated that he had used a pressure washer to wash his pool deck and has used a lawnmower, and pressure washers are louder than the average lawnmower. Mr. Van De Wiele asked Mr. Shadley to confirm if he was reading the graph correctly, the compressor gets louder the farther you go from it then suddenly it is quieter.

John Shadley, 5111 South Kingston Avenue, Tulsa, OK; stated according to the graph the compressor is located on the north side of the building and there is a house on the west side of the avenue, so it is shielded more than the house on the east side; therefore the shielding is more effective in that location. The power washer is as loud as a lawn mower, except in this location the power washer is shielded from the neighborhood from the Amir's Persian Rugs building. Mr. Shadley stated that he had spent the day trying to locate the quietest location for the power washer to be stationed.

Mr. Van De Wiele then asked for clarification about the sound being lower than the ambient noise level, but whether they are lower or higher, the ambient noise level is going to be present by virtue of the fact that it is ambient noise so the power washer is adding to it. If there were 15 power washers running in the neighborhood it would be louder in the neighborhood than if they were all less noisy than the ambient noise. Mr. Shadley confirmed Mr. Van De Wiele's statement. If there are two sounds at the same level it is three decibels higher than either one of them operating separately. If two sounds differ by ten decibels then the lower sound contributes less than half a decibel to the total noise level.

Mr. Henke asked Mr. Moody for clarification on the request for the special exception not being injurious to the neighborhood, because if it was not injurious there would not be so many people from the neighborhood to speak to the Board of Adjustment. He asked if Mr. Moody thinks there is another reason for the protestants to appear before the Board that is not related to this car wash. Mr. Moody stated the two most affected property owners do not object to the proposed car detail operation, along with a third property owner, and they have submitted letters stating this. Mr. Moody stated in the past he has always tried to eliminate the unsubstantiated conclusions, that is why he went to the extra effort to address very specifically things, i.e., the noise, the screening, the water runoff; who knows why people protest.

Mr. Tidwell asked Mr. Moody where the mobile screening fence would be located. Mr. Moody stated the mobile screening fence would be folded up abutting the screening concrete wall on the south side when it is not in use. When the cars are being detailed it would be rolled out along the east boundary of the property adjacent to the sidewalk. Mr. Tidwell then asked Mr. Moody if the board fence was going to be in front of or behind the shrubbery. Mr. Moody stated it would be on the front side of the shrubbery or Amir's Persian Rugs building side. Mr. Tidwell asked on whose property the existing shrubbery is located.

Mr. Kaveh Adib-Yazdi, 2204 East 15th Street, Tulsa, OK; he came forward to address Mr. Tidwell's questions regarding the shrubbery. Mr. Adib-Yazdi stated there is actually a grass-way that belongs to the adjacent property. There is an approximate 18" cement gutter on the other side of the barrier wall and it takes the runoff from the downspout to the stormwater gutter. Mr. Adib-Yazdi stated he is offering to have a fence mounted on top of his wall and at the farthest east point, it is already approximately 50" tall and he does not mind extending it higher as needed. Mr. Adib-Yazdi told the Board that he has been running this same equipment for more than 20 years, so the objection that this is a new idea is not founded. He has been on his property washing rugs weekly and no one has ever stopped and asked what he was doing.

Mr. Van De Wiele asked Mr. Adib-Yazdi how often he would wash rugs and Mr. Adib-Yazdi stated that the rugs would be accumulated and wash them on specific days when there was enough to warrant washing, at least two or three times a week, sometimes all week washing equipment outside. The equipment would be wheeled outside, the rugs would be washed in the parking area, then the equipment would be wheeled back in

and the rugs dried inside. When the equipment was running in the parking area the noise would reverberate within the bay walls and he did not realize that. Mr. Shadley found a new location post the time of the video that is to be presented to the Board, so the equipment has been relocated around the corner to make the noise almost negligible.

Ms. Stead asked Mr. Adib-Yazdi where the runoff from the washing of the rugs goes. Mr. Adib-Yazdi stated the runoff goes down the driveway. Ms. Stead stated this was not before the Board but it does concern her. Mr. Adib-Yazdi stated the products used to clean the rugs is the same type product that people use on their hair so it is not the same chemicals as commercial carpets use in their vans.

Allen English, 1543 South Gillette, Tulsa, OK: stated he is a retired civil engineer and the current President of the Gillette Historic District which was established in 1982 and encompasses two streets, Gillette Avenue and Yorktown Place from 15th Street to 17th Street. The Gillette District is on the national register and consists mostly of homes built in the 1920s by several Tulsa business and civic leaders of that era. He is before the Board as a representative of the Gillette Historic District to state opposition to the special exception request and protect the neighborhood from Amir's Persian Rugs at 15th and Gillette. In the Board packet there are approximately 30 signed protest petitions of home owners on the two streets. The illegal car wash use on the subject property began in April of 2011, and he called it to the attention of the City in the first week of May. The City issued a notice of violation on May 18th.

Mr. Henke asked Mr. English what was offensive about the business and Mr. English stated that it is because it is an automotive business which is not allowed in the historic zoning district.

Mr. English stated that the car wash continued until several days ago. On May 7th Amir's issued a letter to the neighborhood by hand delivery stating that this car detailing was to be a temporary business due to the poor economic conditions. What is being asked is a permanent solution to their temporary business problem. They advertise that have been in business for 47 years, that goes back to 1964, and in 47 years there have been a number of business cycles up and down that they have apparently survived because they are still in business.

Ms. Stead stated that statements have been made that cars are not washed in this detailing business, and there have been several letters presented that state otherwise and Ms. Stead asked Mr. English for his opinion. Mr. English stated they wash cars. Mr. Van De Wiele asked Mr. English if his issue was the noise generated by the business or if it was the nature of the business or is it both. Mr. English stated it was the noise, because if the Board grants this special exception to allow an automotive use the neighborhood does not know what would happen next. There could be cars sold or degreasing, there could be a portable grease rack moved and oil could be changed or they could do anything. This special exception could set a precedent and the

neighborhood does not want a precedent set of an automotive use in the neighborhood, which is in violation of the current zoning requirements.

Mr. Van De Wiele then asked about his comment made about this being a permanent solution to the applicant's temporary business problem, the Board has the ability to limit a special exception to a period of time; would that time limit address the neighborhood's problem? Mr. English stated that based on what he has heard from Amir's and what they said in their letter he would be reluctant to accept a time limit.

Mendy Parish, 1511 South Gillette Avenue, Tulsa, OK; stated her front door is literally 30 feet away from the operation. She has repeatedly heard mention today of one or two cars a day and that is simply not the case, particularly on Saturdays cars are being washed all day. There is a place where all that water is draining into the stormwater drain. Yes he does wash rugs there maybe once a week, but the neighborhood is also concerned about the rug water going into the stormwater drain. The neighborhood understands that Mr. Adib-Yazdi is trying to operate a business so the neighborhood does feel it is necessary to protest a simple rug wash of once a week which is not very disturbing. The car wash is extremely loud because a conversation cannot be carried on in the front yard. Ms. Parish stated her profession is selling commercial real estate; she only makes money if she sells commercial real estate. Many, if not most of her clients, have come before the Board of Adjustment for exceptions. The Board has granted them when they are fair and reasonable and the Board has turned them down when they are injurious to other businesses, and she expects that the Board would turn this request down today. Ms. Parish stated she also has her home on the market after living in it for seven years, and they will miss the neighborhood and will miss Amir's Persian Rugs because it is a beautiful addition to the neighborhood. But the reality is it is zoned CS and the neighborhood does not need automotive. There is a reason for CH zoning, Mr. Adib-Yazdi can purchase property in a CH or IL zoning and can operate his automotive business freely. Ms. Parish again stated her home is on the market and yesterday at 5:33 p.m. she received a contract for sale on the home and at 10:00 p.m. the realtor called her to ask about today's hearing because the buyer wanted to know. How much more injurious can one get than the fact that the buyer wants to know what is going to happen on this automotive use in the CS district. If the automotive business is not injurious to his business then why is not on the front on 15th Street?

Dan Morgan, 1523 South Gillette Avenue, Tulsa, OK; stated he lives about four doors away from Amir's on the opposite side of the street. He is the person who took the video on the DVD with normal settings, not turning up the sound to make it louder than it was. Mr. Morgan stated that from inside his home he could hear the constant noise of not only the power washer but also the vacuum for hours and hours every day. Mr. Morgan stated he would not have bought his home if had known that an automotive related business was going to be set at the very entrance to the historic district. The first thing a person sees when walking down the street from Amir's is the Gillette historic designation sign, and he is proud of that. Mr. Morgan stated he is proud to be in the neighborhood. The neighborhood must go to extensive lengths to get windows approved or to do any type of alteration because it is a historic neighborhood. The

concept of a historic neighborhood is to keep the values up, to make sure it is a cohesive looking neighborhood. To have a car detailing business at the top of the neighborhood ruins it.

Mr. Henke asked Mr. Morgan if he had seen Amir's clean carpets on the property, and Mr. Morgan stated that he has never seen carpet cleaning nor heard any carpet cleaning equipment and he works from his home quite often. At this point the DVD (Exhibit 5-B in file) was played for the Board members and staff that Mr. Morgan stated he had taken while standing on his front porch. Mr. Morgan stated the Board should not change the zoning or grant special exceptions because a person has a temporary dip in their business. The home owners do not have the option of changing things; the zoning laws are in place for the protection of the neighborhood. It is also telling point that Mr. Adib-Yazdi does not ever want to wash or detail cars in front of his business because that would harm him. If the Board decides to grant this special exception request condition it so that Mr. Adib-Yazdi must locate the auto detail operation on the northwest side of his building thus putting the entire building between the neighborhood and the noise and automotive use.

Keith Jones, 1861 East 15th Street, Tulsa, OK; stated he is an attorney and has an office located on 15th Street just west of Amir's. He supports Mr. Adib-Yazdi efforts to have an auto detail operation because it is amongst commercial businesses, which all about the neighborhood. Mr. Jones stated he has been in the neighborhood for 15 years and has seen rugs being washed many times over the past 15 years.

Ms. Stead asked Mr. Jones if he would support this request if he lived in a house right next door, and Mr. Jones stated that he would because a person purchases a house in that neighborhood knowing that it is located near 15th Street and near the commercial businesses.

Mike Ives, 1530 South Yorktown Place, Tulsa, OK; stated he opposes the special exception request, and that by Mr. Adib-Yazdi's own admission, the look to the east is not something the neighborhood would want to see because they have volunteered and agreed to cover up the industrial look with a mobile screen.

Bob Sober, 2420 East 24th Street, Tulsa, OK; stated he lives approximately about a mile away from Amir's Persian Rugs, and he has not heard the air compressor but he still opposes the granting of the special exception. The property is zoned CS and is floating in an ocean of light office zoning which had to be granted that zoning in a similar meeting as today's meeting, because he doubts very seriously if the area was designed that way. Directly south of the property is a residential area, the RS-3, and it also has HP overlay. One of the purposes of residential districts is to protect the residential areas by excluding inharmonious commercial and industrial activities. This proposal is an inharmonious commercial or industrial activity. The City of Tulsa passed an HP ordinance in 1988 and Gillette was the very first neighborhood in the city to have HP granted to them, which is very long difficult process, because it requires a minimum of 60% of the neighborhood to want the zoning. In the code there is a list of purposes for

the historic preservation districts and the third purpose is to conserve, preserve, and enhance the environmental qualities and economic value of historic preservation districts. This district is the smallest district in the City of Tulsa; it only has about 40 residential structures and two streets with four access points. The granting of this special exception would be right in the front door of 25% of the access points to the entire district, would it add to the economic value of the preservation district as the code stipulates? The new Comprehensive Plan was developed through an extensive public process and in that it set out alternative methods to solve people's problems by utilizing the small area plan. The small area plan is essentially bringing the people together to agree on a subject. The voice the Board should be listening to is the voice of the neighborhood organization. The neighborhood organization spoke to the Board both in writing and by their presence at this meeting today and they have objected to this proposal.

Chip Atkins, 1638 East 17th Place, Tulsa, OK; stated this area has increased in property value since 2007. The increases in property values have not been 1% or 2%; they have been as much as 25% to 40% since 2007, since the real estate bust. This has been published in the Tulsa World and the Tulsa Preservation Commission has documentation of all of this. It shows areas like Maple Ridge have increased in value as much as 24%, Yorktown as much as 38%, and Swan Lake as much as 40%. What those figures showed, with the lowest being Maple Ridge, is the Board would be giving an automotive industry a chance to decrease property values. Mr. Atkins stated he was from the car dealership industry and this proposal is not appropriate for this area, and he has never seen any proof where it would increase or decrease property values, but in his experience it would decrease property values. Mr. Atkins stated he has heard the air compressor operating when he was across the street at AAA, and the air compressor will be an issue no matter where it is placed whether it be for the residents or for the business owners.

Rebuttal:

John Moody stated that the subject property is not and never has been part of the Gillette addition. The subject property has never been part of the historical preservation district. Historical preservation districts have a place but they do not dictate everything around them with the standards and requirements of the zoning ordinance. Quite the opposite is true. It has no actual bearing in terms of the zoning code and the section cited by Mr. Sober. Those apply specifically and only to properties that are located within the specific district. Nothing will ever be done in terms of the historic preservation with the subject property; it will be used how it will be used under a commercial retail district. His client has said that he would agree to and amend the application, if the Board grants the special exception request, to perform the business on the northwest corner of the property as people have spoke about today. Currently the automotive detailing is performed on the east side of the building because that is where the utilities, the loading dock and garbage disposal are located. If Mr. Moody's client moved the automotive detailing services to the northwest corner the proposed screening fences would no longer be needed, but the service would still be operated under the same

other conditions that were offered. Mr. Moody thinks this is the most beneficial compromise that his client could offer.

Mr. Henke was going to close the open discussion portion of the meeting but Mr. Sansone informed the Board that an adjacent property owner located to the west arrived late and would like to speak to the Board before the open discussion is closed. Mr. Henke allowed this speaker to come forward.

Renee Williams, 2120 and 2130 East 15th Street, Tulsa, OK; stated she owns the property to the north and west of Amir's Persian Rugs. She and her partner operate a law office at the adjacent property. When they remodeled the property they spoke to the surrounding neighbors and tried to make it fit into the neighborhood by installing a slate roof and copper gutters. Ms. Williams stated that she and her partner are vehemently opposed to any automotive business being placed next door to their office.

Mr. Henke asked Mr. Moody if he had anything he would like to add before the Board went into discussion and Mr. Moody declined.

Comments and Questions:

Ms. Stead stated she was not in favor of an automotive business in this area because it would be injurious to the neighborhood.

Mr. Van De Wiele agreed with Ms. Stead. Even if the business were to be moved to the northwest corner it would help the Gillette district but it would hinder the legal business. Mr. Van De Wiele stated he agrees with Mr. Moody that the Gillette district is not the only consideration but that is certainly who has been heard from today, and he does not see how this request could be anything but injurious to the neighborhood.

Mr. Tidwell stated that he also thought the request would be injurious to the neighborhood even though Amir's is not in the preservation district.

Mr. White stated that comments had been made that the automotive detailing is a commercial business but this is already a commercial business. This application is to intensify that particular commercial business, and if the request were granted it would intensify the commercial business to the point that it would be detrimental to the Gillette neighborhood.

Mr. Henke agreed with the other Board members. Mr. Adib-Yazdi is a long-standing, well-respected businessman but this is not the proper location for this request.

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 request for a Special Exception to permit Auto Detailing (Use Unit 17) in the CS district (Section 701) finding that it would be injurious to the neighborhood; for the following property:

LOT 1 & LOT 2 LESS S 13.4' BLK 2, HOPPING'S ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21239-A—Joe McGraw

Action Requested:

Variance of the minimum livability space required for a permitted duplex in the RS-3 district (Section 404.C.4); and a Modification of conditions of a previous approval for a permitted duplex use in the RS-3 district. **Location:** 1648 South Indianapolis Avenue

Mr. Henke recused himself from this hearing at 2:55 P.M.

Presentation:

Bill McCullough, 6923 East 111th Place South, Bixby, OK; stated he represents Mr. Joe McGraw, and today a variance is being requested for the livability space required for a duplex. This is due to the fact that the duplex is located on a corner lot, using the entire lot space, it is not possible to achieve the square footage requirement without building a much larger two-story dwelling, which would not be desired.

Ms. Stead asked Mr. McCullough if it was his understanding that the neighborhood did not want a two-story duplex, and Mr. McCullough affirmed the statement. Mr. McCullough also stated that he understood that the residents of that area did not want a three-bedroom duplex, and the duplex was to have two separate accesses so it would like a single family unit on one street and a single family unit on the other street to make it more conducive to the neighborhood. Ms. Stead asked Mr. McCullough if it was his understanding the neighborhood wanted one-bedroom units, and what prompted the design of two-bedroom units. Mr. McCullough stated he was not aware of the desire to have one-bedroom units. Initially the duplex was designed to be three bedrooms to fully utilize the space but the residents were worried about over-crowding the area; too many people in the unit, too much traffic, etc. so the design was reduced to a two-bedroom unit with a single-car garage instead of a two-car garage.

Interested Parties:

Barbara Nottingham, 1634 South Indianapolis Avenue, Tulsa, OK; stated the neighborhood was designed and built as one-bedroom one-bath duplexes from the 1920s and 1930s, which are easily rented to the Tulsa University students. The neighborhood has presented a petition and would like to see the area stay as it was designed and built. The neighborhood's objection for the variance that was granted for a duplex that should be built on a 9,000 square feet lot now being built on a 7,000 square feet lot is the future opportunity for others to come into the neighborhood and

build the same type duplex. As stated, most of the 29 duplexes with people on both sides are one-bedroom one-bath with no attached garages, several detached garages and/or carports. The proposed design to build has two bedrooms with two baths on both sides and each has an attached one-car garage. It seems that nothing can be done but the neighborhood wants it on record that they still object and do not feel this a good decision for the neighborhood.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Stead, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”) to **APPROVE** the request for a Variance of the minimum livability space required for a permitted duplex in the RS-3 district (Section 404.C.4); and a Modification of conditions of a previous approval for a permitted duplex use in the RS-3 district. The Board is modifying the previous approval in that livability space is reduced from 5,000 square feet to approximately 4,674 square feet, per plan on page 6.6 except there will be sidewalks constructed on 17th Street and on South Indianapolis Avenue. In granting the variance the Board has found that by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the 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 11 BLK 8, SUNRISE TERRACE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Henke returned to the meeting at 3:14 P.M.

Mr. White left the meeting at 3:14 P.M.

Mr. White returned to the meeting at 3:17 P.M.

* * * * *

NEW BUSINESS

21298—Andrew Nelson

Action Requested:

Special Exception to permit a carport in the required front yard in the RS-2 district (Section 210.B.10); and a Variance of the maximum permitted size of a carport in the required front yard from 20' X 20' (Section 210.B.10.a). **Location:** 2626 South Evanston Avenue East

Presentation:

Andrew Nelson, 2626 South Evanston Avenue, Tulsa, OK; stated the porte cochere was built in 1981 or 1982 according to INCOG, the records and photographs. The house was built in 1950 it was chosen for Evanston to be the front of the house, hence the address 2626 South Evanston Avenue. When he purchased the home in April 2010 the title company and the appraiser performed a zoning clearance check, and he has documents that show that the house was legal and zoning compliant at the time of the purchase. When the porte cochere was built there was no change in the front. The City of Tulsa does not keep records of zoning clearance permits but there was probably one granted in 1981 or 1982 because the porte cochere is so substantial. The complaint started from neighbors who is to the west of the house, and their complaint is they do not like the porte cochere because it blocks their view looking to the east so they have a vested interest in attempting to find a loop hole that they have created from a 30 year old port cochere which has cost him significant time and money. Mr. Nelson stated that to remove the porte cochere would be an economical hardship because the cost would be approximately \$30,000. When the fence was built, Mr. Nelson and the contractor he hired, contacted INCOG and the building permit office at least twice to confirm that the fence was within the regulations of zoning and everyone said the fence was fine. The neighborhood inspector that came out about 30 days after the fence was built dropped the case in October 2010, saying the fence was a non-issue and totally compliant. Nine or ten months later, in June 2011, Mr. Nelson was contacted again because the people opposed to the fence continued to complain.

Ms. Stead asked Mr. Nelson to confirm that the fence in question was the new fence, and Mr. Nelson confirmed that it was. Ms. Stead asked Mr. Nelson how high the fence was and Mr. Nelson stated the entire fence is a six foot fence. Mr. Nelson stated the fence was not in question because the request is for a special exception for the porte cochere in the front yard that was built 30 years ago. Mr. Nelson believes that 30 years ago there was a zoning clearance permit filed and granted at that time because of the substantial size of the porte cochere, it is not a structure that could be erected overnight. Mr. Nelson stated his frustration is that the porte cochere has gone through more than four checks from the purchase forward and now he must file and request for this special exception. Mr. Nelson stated that the people living directly across the street from the porte cochere does not have a problem with it, it is the people that live to the west wishing to have a view for their pleasure.

Ms. Stead asked Mr. Nelson if he had the abstract examined when he purchased the property and he confirmed that he had. Mr. Nelson stated that there are two other porte

cocheres and eleven fences in the neighborhood that are out of code, and he would like to continue enhancing the property but this process has kept him from doing that. Ms. Stead stated that a six-foot fence in the front yard is not allowed but it is allowed in the side yard. Mr. Nelson stated there was proper distance of the fence and the neighborhood inspector has already confirmed that the fence is okay.

Interested Parties:

Jim Elias, P. O. Box 1066, Bartlesville, OK; stated he represents Bill and Cindy Howard and they are the neighbors to the west of the applicant. This case is more complex than what the applicant suggests. Mr. Nelson's comment about this case not being about the fence is misguided. To fully understand how it is related the fence and the carport a little background information is needed. The applicant purchased the property in August 2010 and at that time there was not a zoning compliance issue because there was not a fence and 27th Street represented the front of the house with the front yard not being necessarily tied to the front door, it is where it complies with the code and that compliance took place on 27th Street not Evanston Avenue. A petition and aerial photo have been submitted that has been signed by 14 neighbors who concur with the protest of the application in this case to the extent that by granting the application the Board is in essence declaring Evanston Avenue the front yard of the house then giving approval to a fence on 27th Street. After the applicant purchased the house he approached the neighbors and inquired about the fence, which brought objections to the fence being constructed.

Mr. Van De Wiele asked Mr. Elias to explain the signed petition that had been presented, because it seemed to him that it was a petition regarding the fence and fence only. Mr. Elias stated that his point is, in essence, it is an objection to the application because if the application is granted, then the fence is considered to be in a side yard and is in compliance with the code.

Mr. Van De Wiele asked Mr. Swiney to clarify, if the yard is as it has been declared to be on Evanston Avenue, hence the 27th Street is a side yard and what is to be discussed is the carport or porte cochere. Mr. Swiney stated that is exactly how it appeared to be to him. Mr. Elias stated that Mr. Sansone would concur with him that it is not where the front door is located but where the compliance is. East 27th Street, up until Mr. Nelson's purchase, would have had the setback compliance for a front yard as there would have been zoning violations on Evanston Avenue.

Ms. Stead asked Mr. Elias if he was trying to tell the Board that the house does not face Evanston Avenue and they do not receive their mail on Evanston Avenue in a mail box. Mr. Elias stated that what he is presenting to the Board is that the front door of the house does not define the front yard for zoning purposes. Ms. Stead stated the Board is well aware of that but a person can choose. The applicant receives their mail addressed to 2626 South Evanston Avenue, and they face Evanston. Mr. Elias stated that if the applicant chooses that, they are choosing something that is in violation of the code.

Mr. Tidwell asked Mr. Elias why he would make such a statement. Mr. Elias stated there was no special exception that has ever been granted with respect to the carport on Evanston, and the character of all the other homes in the neighborhood has the east/west homes. Mr. Tidwell stopped Mr. Elias and asked him if he was before the Board to argue about the carport or about the fence because he is vacillating between Evanston and the street.

Mr. Van De Wiele stated that when he drove by the property the house does indeed face Evanston Avenue. Mr. Elias agreed that the house does face Evanston. Mr. Van De Wiele agreed with Mr. Elias, stating that where the front door is located does not necessarily dictate where the front of the house is, but on a corner lot the property owner has the ability to declare which is their front, and he thinks what Mr. Elias's point is that the applicant would be declaring to a nonconforming issue but that why the applicant is here. Mr. Elias agreed and that why he is here protesting his declaration that is non-zoning compliant. Mr. Van De Wiele stated the applicant did not declare Evanston because that was done years ago. Mr. Elias disagreed with Mr. Van De Wiele, stating that when the carport was built without an exception the carport would have been zoned compliant as far as the side yard with 27th Street being deemed the front yard. Ms. Stead asked Mr. Elias to confirm that he was stating that 27th Street was the front yard 30 years ago, and Mr. Elias gave affirmation. Ms. Stead asked Mr. Elias what proof he had to substantiate that statement. Mr. Elias stated that was because it complied with the zoning code for the last 30 years. Mr. Van De Wiele stated that Mr. Elias is presenting a clever legal argument that the only compliant front yard is on 27th Street, hence that is his front yard. Mr. Elias stated that basically what happened in this case is the applicant, instead of seeking the special exception, ended up acting at his own peril by installing a fence that did not comply with the front yard setback rules. When the neighbors objected to it, the applicant is actually performing the clever legal argument, saying his front yard is on Evanston Avenue.

Mr. Henke asked Mr. Elias if he was stating the house address would be an East 27th Street address because the address is 2626 South Evanston Avenue the Board is saying the front of the house is on Evanston, and if he understands correctly, Mr. Elias is saying it is actually on the 27th Street side. Mr. Elias stated is a totally separate issue as far as the zoning code setback, and he has correspondence from Mr. Sansone spelling that out.

Mr. Henke asked Mr. Elias if he offer evidence that the front of the house has been changed, any evidence that would show it changed from 27th Street to the Evanston side. Mr. Sansone stated that in respect to this particular piece of property, if the 27th Street side was the front yard it would create a nonconformity so it would not meet the rear yard requirement along the north boundary line, which is why there is confusion with Evanston as the required front yard. Minus the porte cochere the house meets all setback requirements so a yard cannot be declared and have that declaration create a nonconformity. Mr. Henke stated the porte cochere was either built outside of the code or what Mr. Sansone just stated was what happened, and the Board is asking is for some evidence that the original porte cochere was built within the code. Mr. Sansone

stated that he does not believe that evidence exists because his point in clarification is when the house was constructed Evanston was declared as the front yard because it would not have met the rear yard requirement from 27th Street, and all requirements must be met. Just because 27th Street meets the RS-2 setback for a front yard does not necessarily mean that it is the front yard because the property would have to meet the rear yard requirement as well and this property does not meet the rear yard requirement on the north boundary line. The property does meet the rear yard requirement on the east boundary line, which is parallel and directly opposite the required front yard which is what the code defines as the rear yard.

Mr. White left the meeting at 3:38 P.M.

Ms. Stead asked Mr. Sansone if the porte cochere was built with the house when the house was built, and Mr. Sansone stated that it was not. Aerial photographs show that the porte cochere was erected some time in 1981 or 1982.

Mr. Van De Wiele asked Mr. Elias to address the point that his argument is because there is so much room on the 27th Street side that has to be the front yard. If that were the case there is very little or no rear yard. Mr. Elias stated there are only about two feet of distance from the north side and the second carport, which is post construction so it does not comply with side yard requirements either, whether it is rear yard or side yard. Mr. Elias asked Mr. Sansone to confirm that statement, and Mr. Sansone stated the side yard requirement would be five feet, but without a survey he would not be able to confirm that statement.

Mr. Elias stated this property is out of code and that is why he is before the Board protesting, because the applicant acted in his own peril and installed a fence in what would have been zone compliant and created the violation that prompts the protest today. Mr. Van De Wiele disagreed with Mr. Elias and stated that what prompted Mr. Nelson to be before the Board today is that Code Enforcement, for whatever reason, has determined there was no permit or exception for the porte cochere. Mr. Van De Wiele continued by saying that what it seems like Mr. Elias is asking or suggesting the Board to do is declare this house should be oriented differently and hence tear down the fence which is in the side yard. Mr. Elias stated whether it is in the side yard or the only yard that could be considered, he believes that in the absence of a special exception and a variance, and for a variance a hardship must be shown. The protestants are not asking for the porte cochere to be demolished they are asking for the applicant to move the fence back to be in compliance with the setback for front yard. Mr. Elias continued by saying that this home is totally inconsistent with the other homes in the neighborhood that have east/west roads being front yards and Evanston being side yard. Mr. Van De Wiele stated that when he drove by the property he would never have thought that he was going to come before the Board to tell them that anything other than Evanston

Avenue was the front of the house, so he asked Mr. Elias if he was asking for the Board to tell him that the front door of the house is on the side of the house. Again, Mr. Elias stated that he is reverting to information provided to him by Mr. Sansone from the outset of this case that indicates that simply because the front or back door faces a particular direction does not establish which yard is front.

Ms. Stead asked Mr. Elias which property owner owned the older fence next to Mr. Nelson, and Mr. Elias did not know but he did know that it was not the applicant's fence. Mr. Elias had a picture on the overhead screen showing a view from Mr. and Mrs. Howard's front porch looking east at a wooden stockade-style fence. Mr. Elias stated this fence was erected over objection and without seeking approval from the Board of Adjustment for the carport.

Mr. Henke asked Mr. Elias if his opinion was that the property owner that constructed the carport, for the purposes of building the carport, designated 27th Street so they could get that built and now that Mr. Nelson has come in after the fact, it looks like the front of the house is where the carport is located. Now Mr. Nelson has to come before the Board of Adjustment to ask for relief either for the carport or for the fence, and that he took the easy way out by making the carport the item to ask for the relief from the Board because the carport has been in existence for 30 years and the Board would have less of an issue for something that has been in existence for 30 years versus something that is brand new. Mr. Elias stated that was correct, and stated there was also the violation on the north side.

Mr. Van De Wiele asked Mr. Elias where he would suggest the fence be placed, and Mr. Elias stated under the circumstances it should be set back 30 feet and four feet in height as a front yard. Mr. Elias also stated that a compromise could be reached by moving the fence 20 or 25 feet back to maintain the sight lines on the east/west road and to minimize the effect of the very large fence, there is consistency throughout the neighborhood with the exception of this large wooden fence.

Mr. White returned to the meeting at 3:42 P.M.

Mr. Van De Wiele again asked Mr. Elias to confirm if he was before the Board to protest the carport. Mr. Elias stated, based on what he has already indicated, the protestants would have no objection to allowing the special exception and variance provided there is a condition, to be consistent with the neighborhood, that the fence be moved back. Mr. Van De Wiele asked Mr. Elias who he would suggest pay for the fence being moved. Ms. Stead stated this case is not advertised to have the Board make any decision regarding a fence; this is a request for a special exception to permit a carport and a variance of the maximum size of the carport; not one word of a fence is advertised. Mr. Van De Wiele stated the Board has the authority to put conditions on a

special exception. Mr. Henke stated the question is whether or not the carport was built legally, and it probably was, but that was back when 27th Street was designated as their front yard.

Mr. White asked Mr. Henke to confirm that the fence had already been determined by the City of Tulsa that it was in place legally, and he confirmed that. Mr. White stated there is nothing the Board can do to make Mr. Nelson move the fence if it is already legally in place.

Mr. Elias stated that the City had issued a notice of violation and rescinded it with the reason being there was no rear yard if it was to be determined that that was the front yard and when the City goes back to the property, they will find that it is not compliant as a rear yard, it is not compliant as a side yard. On that basis, concluding that 27th wasn't the front yard is flawed. As to who would pay for the moving of the fence Mr. Howard has stated he would be willing to compromise and pay for half of the cost of the fence being moved back.

Bill Howard, 2839 East 27th Street, Tulsa, OK; stated he is the applicant's neighbor and he appreciates the situation the Board is facing with the tremendous amount of details that apply to this case and are very confusing, they are certainly more confusing to an average homeowner. The petitioners have sought the opinion of the neighborhood and he wants to make sure the Board understands that Mr. Nelson's house, regardless of what his technical front yard is, what his address is, is the sole exception in a broad area of houses that face side streets. The neighborhood considers the main streets to be the east/west streets and with Mr. Nelson's house being the only exception; everybody faces north or south. Mr. Howard stated that he hates to speak about the fence but he believes Mr. Nelson knows the issue is about the fence and not about a carport and he has sought the simple solution to solving the problem that the City of Tulsa has asked him to solve, but the real problem is the fence. There was no objection to anything that has been done over the years. The house has been added onto numerous times, the neighbors do not know of building permits or other exceptions, but for Mr. Nelson to say he could not find a record of an exception being granted but yet there is one on record from 1975. Why would the one for 1982 not be on record? Mr. Howard stated he or the neighborhood is asking Mr. Nelson to tear down either one of his carports, the one on the north or the one on the front or the east. The real issue is the fence and we ask the Board to force a compromise so the integrity of the neighborhood is not injured. This fence is injurious to the neighborhood and that is represented by the 14 names on the petition.

Joe Boydston, 2829 East 27th Street, Tulsa, OK; stated he lives west of Mr. and Mrs. Howard and has lived there since 1984. Mr. Nelson's house has always been there. Originally on the south side there was a chain link fence and it was not where the current wooden fence is, but back 25 or 30 feet. The current fence is difficult to see around when you drive to the corner and Mr. Nelson's fence is the only fence on any corner lot anywhere in the area.

Rebuttal:

Mr. Nelson stated there is a fence similar to his fence directly north of his house so Mr. Boydston's statement about this being the only fence like this in the neighborhood is incorrect. The south side of the house is impossible to be considered the front, or ever have been considered a front, because there is not a required front door on that side and there is not the proper setback. With or without the carport there is not the proper setback for a backyard. Mr. Nelson stated that his frustration is because he called INCOG and received the ok, his contractor received the ok from the building office, and he took two months to take a serious consideration to the fence because he did not want to aggravate the neighbors over the situation. It was the simple fact that he has a small child and wanted a little bigger backyard for him. Mr. Nelson posed the question of does he provide a park for his neighbors and pay the taxes on that piece of land or does he have a little bigger back yard. The neighborhood inspectors have already ruled that the fence is legal as long as he receives this special exception. Mr. Nelson thinks the protestants are doing legal shuffling by mentioning the fence before the Board and almost harassing neighborhood inspections for 10 months to get this brought before the Board of Adjustment. Mr. Nelson stated that 27th Street was never considered a front yard; his address is 2626 South Evanston Avenue.

Mr. Henke asked Mr. Nelson if he would be complete opposed to moving the fence. Mr. Nelson stated that the way this situation has been handled by the neighbors is not the way they have described it. It is their version of the truth. The fence is not a huge fence like it has repeatedly been described; it is a six foot fence with a crown top. He has been waiting to stain the fence and perform any other improvements to the property because this issue has lingered for almost a year. Mr. Henke asked Mr. Nelson if he could take his answer as a no, that he would not be interested in lowering the height of or moving the fence. Mr. Nelson stated that would be correct because the neighborhood inspector says it totally compliant; he would just wants privacy in his back yard, especially after all that has happened.

Comments and Questions:

Ms. Stead stated she is sorry the neighbors came forward with all the information on the fence, and she would have looked more closely in the neighborhood if she had any idea that was the problem. She does not see a problem and Code Enforcement does not see a problem. Her opinion would be that the special exception and variance be permitted for the porte cochere that has been in existence for almost 30 years.

Mr. Van De Wiele agreed with Ms. Stead. He believes the crux of the problem is the house is oriented differently from most corner lots in the neighborhood but it is what it is. The house faces Evanston and its address is Evanston. Mr. Van De Wiele believes there are neighbors who would rather look out at an open space rather than Mr. Nelson's fence, but this is his property and he has the right to fence in the side and back yards with a six foot fence. And Mr. Van De Wiele agrees with Mr. Nelson, he thinks the protestants are asking Mr. Nelson to leave 30 foot green belt on the side of his house on the outside of his fence that they can enjoy and Mr. Van De Wiele does not find that to be reasonable.

Mr. Tidwell stated the house is oriented toward Evanston and that it has been that way since it was built. The porte cochere was added 30 years ago and he does not see a problem with a six foot fence in the back yard.

Mr. White concurred.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-1-0 (Stead, Tidwell, Van De Wiele, White “aye”; Henke “nay”; no “abstentions”) to **APPROVE** the request for a Special Exception to permit a carport in the required front yard in the RS-2 district (Section 210.B.10); and **APPROVE** a Variance of the maximum permitted size of a carport in the required front yard from 20' X 20' (Section 210.B.10.a). On the variance the Board has found that it has been in peaceful existence for approximately 28 years and that it is not so obtrusive as to require cutbacks or destruction. The Board approves the variance for the above reasons and these are extraordinary and exceptional conditions and circumstances, which are peculiar to this land, the structure and the building involved, the literal enforcement of the terms of the Code at this late date 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 which the Board has granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan. In granting the special exception the Board has found that it 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 10 BLK 2, CRESTWOOD ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21308—Lamar Outdoor Advertising

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:** North of the NW/c of West Apache Street and Tisdale Parkway

Presentation:

Lorinda Elizando, Lamar Outdoor Advertising, 7777 East 38th Street, Tulsa, OK; no presentation was 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 Wlele, White "aye"; no "nays"; no "abstentions") based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicants Verification of the spacing requirement between outdoor advertising signs for conventional and digital billboards, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign; for the following property:

A tract of land located in the E/2 of Section 22, T-20-N, R-12-E of the Indian Meridian, Osage County, State of Oklahoma, according to the Official U.S. Government Survey thereof, more particularly described as follows: Commencing at the northeast corner of the NE/4 of Section 22, T-20-N, R-12-E; Thence S 00°40'05" W along the east line of the NE/4 of Section 22 a distance of 876.32 feet; Thence N 89°19'55" W perpendicular to the east line of the NE/4 of Section 22 a distance of 34.63 feet to the westerly right of way of the easterly portion of Parcel 21.0, Gilcrease West Expressway, as recorded in Book 1398, Pages 0056-0083, in the Osage County Clerk's office, and the "Point of Beginning"; Thence S 00°32'54" W along the westerly right of way of the easterly portion of said Parcel 21.0 a distance of 793.82 feet; Thence S 25°33'19" W along the westerly right of way of the easterly portion of said Parcel 21.0 a distance of 1065.57 feet to the north line of the SE/4 of Section 22; Thence continuing S 25°33'19" W along the westerly right of way of the easterly portion of said Parcel 21.0 a distance of 270.43 feet; Thence S 45°33'19" W along the westerly right of way of the easterly portion of said Parcel 21.0 a distance of 661.44 feet to the most southerly north right of way of L. L. Tisdale Parkway; Thence N 89°04'43" W along the most southerly north right of way of L. L. Tisdale Parkway a distance of 84.58 feet to the easterly right of way of Osage Drive; Thence N 00°01'12" E along the easterly right of way of Osage Drive a distance of 192.93 feet to the easterly right of way of the westerly portion of Parcel 21.0, Gilcrease West Expressway, as recorded in Book 1398, Pages 0056-0083, in the Osage County Clerk's office; Thence S 89°54'57" E along the easterly right of way of the westerly portion of said Parcel 21.0 a distance of 57.87 feet; Thence N 00°05'03" E along the easterly right of way of the westerly portion of said Parcel 21.0 a distance of 1170.68 feet; Thence N 30°17'38" E along the easterly right of way of the westerly portion of said Parcel 21.0 a distance of 729.97 feet; Thence N 05°40'35" E along the easterly right of way of the westerly portion of said Parcel 21.0 a distance of 370.45 feet; Thence N 08°28'22" W along the easterly right of way of the westerly portion of said Parcel 21.0 a distance of 284.41 feet; Thence N 28°07'26" W along the easterly right of way of the westerly portion of said Parcel 21.0 a distance of 125.78 feet; Thence N 29°08'22" E along the easterly right of way of the westerly portion of said Parcel 21.0 a distance of 325.25 feet to the westerly right of way of the easterly portion of Parcel 21.0, Gilcrease West Expressway, as recorded in Book 1398, Pages 0056-0083, in the Osage County Clerk's office; Thence S 63°00'08" E along the westerly right of way of the easterly portion of said Parcel 21.0 a distance of 313.85 feet; Thence S 49°59'04" E along the westerly right of way of the easterly portion of said Parcel 21.0 a distance of 171.20 feet; Thence N

51°35'52" E along the westerly right of way of the easterly portion of said Parcel 21.0 a distance of 62.94 feet; Thence S 49°59'04" E along the westerly right of way of the easterly portion of said Parcel 21.0 a distance of 15.00 feet; Thence S 43°37'52" E along the westerly right of way of the easterly portion of said Parcel 21.0 a distance of 65.00 feet; Thence S 51°35'52" W along the westerly right of way of the easterly portion of said Parcel 21.0 a distance of 69.41 feet; Thence S 37°56'37" E along the westerly right of way of the easterly portion of said Parcel 21.0 a distance of 190.45 feet; Thence S 19°12'34" E along the westerly right of way of the easterly portion of said Parcel 21.0 a distance of 121.17 feet; to the "Point of Beginning". Said tract contains 1,926,250 square feet or 44.2206 acres. The non-astronomic bearings for said tract are based on an assumed bearing of 00°40'05" W along the east line of the NE/4 of Section 22, T-20-N, R-12-E of the Indian Meridian, Osage County, State of Oklahoma, according to the Official U.S. Government Survey thereof, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21309—Clifford West

Action Requested:

Special Exception to permit a scrap metal business (Use Unit 26) in an IL district.

Location: 10210 East 50th Street South

Presentation:

Stephen Gray, 4530 South Sheridan Road, Suite 205, Tulsa, OK; stated he represents Mr. Clifford West. This property is located in the former township of Alsuma which is now an industrial area. This property is a block north of 51st Street and approximately 600 feet of Highway 169. Mr. West wishes to relocate his family scrap metal business with six or seven employees who are family members. There will be bins for storing various types of metals with a 4,950 square feet building and eight parking spaces. There will be no obnoxious environmental activities such as smelting or melting of materials; it will be a place where people can bring their scrap metal to sell or buy scrap metal from him. Mr. West has a pending contract to purchase this property from the owners and they are in complete agreement with his intentions.

Mr. Tidwell asked if the bins were covered, and Mr. Gray deferred to Mr. West.

Interested Parties:

Clifford West, 36197 East 71st Street, Broken Arrow, OK; stated the bins are well maintained American Waste bins which are used in other jobs all over the city; they are not a sealed-type bin.

Ms. Stead asked Mr. West if anyone had explained to him that code would require him to cover the entire area with asphalt or concrete, and Mr. Gray replied that Mr. Cuthbertson had not explained that to his client. Ms. Stead stated that it would be required for any parking or driving surface on the property.

Mr. West stated that his company is environmentally friendly and very conscious of what goes into and onto the ground; more and more the requirement is to keep an area as natural as possible. Ms. Stead stated the code demands asphalt or concrete in the parking area and the driving loop; anything that is driven on or parked on requires asphalt or concrete.

Mr. West stated his business is a family-operated business and it is not a giant conglomeration; there are no cranes and the only equipment that is used to load and unload with is a 30 HP Kabota front-end load tractor. Mr. West's customers usually bring in copper, brass, stainless steel with 1/10 or less of the traffic that most yards have.

Mr. White asked Mr. West if the bins were the roll-on-roll-off type. Mr. West stated they were. Mr. White stated that he fully understands Ms. Stead's enthusiasm for paving. Alsuma does not have improved streets and with the size of vehicles that will be coming into the business, the request for paving in Alsuma is misapplied because there is so much of it that is gravel. Ms. Stead stated that if the code is never applied it will never happen.

Mr. Gray asked the Board for mercy in regards to the asphalt or concrete because Mr. West's business is a small business. Mr. Gray stated that he has handled extensive matters in Alsuma starting with condemnation cases starting at 51st Street going southward through Golden Valley and other places. This gentleman does not have financially deep pockets and all his employees are family members. There is not a lot of paving on the private properties where deliveries are being made, and he appreciates what Ms. Stead is saying regarding the paving requirements, but he would ask for mercy from the Board.

Comments and Questions:

Mr. Alberty stated that the requirement is in Section 1303, paragraph D; unenclosed off street parking areas shall be surfaced with an all-weather material.

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 **APPROVE** the request for Special Exception to permit a scrap metal business (Use Unit 26) in an IL district. The Board finds the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LTS 1 THRU 5 & N10 VAC ALLEY ADJ ON S BLK 48, LTS 6 & 7 & E25 VAC S 102 AVE ADJ ON W & N10 VAC ALLEY ADJ ON S BLK 48, LT 1 & N10 VAC ALLEY ADJ ON S & W25 VAC S 102 AVE ADJ ON E BLK 49, LT 2 & N10 VAC ALLEY ADJ ON S BLK 49, LT 3 & N10 VAC ALLEY ADJ ON S BLK 49, LT 4 & N10 VAC ALLEY ADJ ON S BLK 49, LT 5 & N10 VAC ALLEY ADJ ON S BLK 49, LTS 6 & 7 & N10

**VAC ALLEY ADJ ON S BLK 49, ALSUMA, CITY OF TULSA, TULSA COUNTY,
STATE OF OKLAHOMA**

21310—Claude Neon

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: 6110 South 99th Avenue

Presentation:

Ed Horkey, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, OK; stated this sign is for First Baptist Church which has a satellite church at the advertised location. The property to the east is Union 7th and 8th grade center, and everything else surrounding the location is zoned IL and CS. The request is to install an electronic message center on the bottom portion of the existing church sign. There are no occupied residences in the direct line of sight of the proposed electronic message center.

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 Wlele, White “aye”; no “nays”; no “abstentions”) to **APPROVE** 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), finding that this sign will be in the same location as the existing sign. There are other LED signs on 61st Street as a primary arterial and the condition is the sign be in compliance with 1221.C.2. The appearance of the sign will be per plan on page 10.9 and is to be a non-flashing static display sign. Finding 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:

**LT 1 LESS S130 & LESS BEG NEC TH S20 NW14.14 W127.58 N10 E137.58 POB
BLK 3, UNION GARDENS, CITY OF TULSA, TULSA COUNTY, STATE OF
OKLAHOMA**

21311—Roy Johnsen

Action Requested:

Variance of the minimum frontage required in the CS district (Section 703) to permit a lot-split; and a Variance to permit an additional structure to be erected in connection with a nonconforming use of land (Section 1401.B.3), or in the alternative a Special Exception to permit mini-storage facilities (Use Unit 16) in a CS district; and a Variance to permit open air storage that is visible at ground level from an R district and from a public street (Section 1216.C.2). **Location:** 6506 South Peoria Avenue East

Presentation:

Roy Johnsen, Williams Tower One, 1 West 3rd Street, Suite 1010, Tulsa, OK; stated he represents Alcatraz Mini-storage LLC. When Mr. Johnsen filed the application with INCOG he gave a description for the south 139 feet of Lot 1 and that is the variance being sought for the frontage requirement. The property is zoned CS, and CS requires 150 feet of frontage along an arterial street. He is seeking a variance to that to permit a frontage of 139 feet. However, the INCOG system is tied into the County Assessor's maps and the description came back on the whole piece of property which is reflected on the aerial map in the Board's agenda packet. Mr. Johnsen stated he is not seeking a variance on the north portion of the property. He submitted a new legal description. Mr. Johnsen's client purchased the property in the mid-60s and has used the south portion of the property for storage of RV's, boats and cars, and has done this continuously since the purchase so the property has nonconforming status. Mr. Johnsen had an inspector, many years ago, determine that the use and gravel was nonconforming so it would not be required for the paving or asphalt. Ms. Stead stated that Mr. Johnsen would have nonconforming if he did not build anything else on the property, but there is a cover proposed in this application so the nonconforming status should be lost. Mr. Johnsen affirmed that statement but stated the nonconforming would not be lost because in this type of non-conformity it states there cannot be an additional building. There is a request for a variance to that provision to permit installing a roof on the RV storage in part. The Board has the authority to impose a condition but those imposed conditions should be related to what relief the applicant is seeking and the type of surfacing is immaterial as to installing a roof over the expensive RVs. There will be a screening fence along the south, on the east and on the north side; added landscaping to meet code along the front of the property; added gravel to the lot as needed, and a general cleaning of the property.

Mr. Van De Wiele asked staff if the Board can grant a variance to a portion of the property. Mr. Alberty stated that Mr. Johnsen has two actions before the Board today. What he is arguing is to grant a variance to the nonconformity, in which he thinks Mr. Johnsen is correct, if the Board allows the building to be developed under the nonconforming status and allow the variance to occur. The alternative is if the Board chooses not to grant the variance of the nonconformity and utilize the special exception, two things will happen: Mr. Johnsen will need to comply with the new code and must plat the property.

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 request for a Variance of the minimum frontage required in the CS district (Section 703) to permit a lot-split; and **APPROVE** a Variance to permit an additional structure to be erected in connection with a nonconforming use of land (Section 1401.B.3). Referring to the conceptual site plan on page 11.6 the area marked proposed covered RV storage will be covered (roof) with posts substantial to hold the cover; lighting will be down and away from adjacent buildings. In granting the variances the Board has found that this property platted in approximately before the 1970 code was written contains the south 139 feet. The property is legally nonconforming and that the circumstances and conditions the Board has found to be peculiar to this land, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

THE SOUTH 139 FEET OF LOT 1, BLOCK 1, YOUNG CENTER, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA ACCORDING TO THE RECORDED PLAT (#2104) THEREOF

Mr. Swiney excused himself from the meeting at 4:53 P.M.

Mr. Van De Wiele left the meeting at 4:53 P.M.

21312—John Folks

Action Requested:

Variance of the maximum number of signs permitted in the OMH district (Section 602.B.4.a); and a Variance of the maximum permitted display surface area for a proposed wall sign in the OMH district (Section 602.B.4.c). **Location:** 5132 East Skelly Drive South

Presentation:

John Folks, Holloway & Monahan, 4111 South Darlington, Suite 900, Tulsa, OK; stated he is before the Board today to request two actions. The first one would be to vary the

number of signs allowed at this location and the second would be to permit a larger size sign. If the variances are granted, it would result in a total of eight signs and not the nine signs stipulated in the staff case report on page 2. The five existing signs do not exceed the total 3'-0" x 3'-0" allowed each, and none of them reference the name of the property because they are directional signs. There is one other existing sign on the property and it is a face sign. The hardship this property has is that it is an office complex in an OM zoning district, but the entire corridor along Skelly is in CS zoning. All the offices in the neighborhood have monument signs and display signs on the buildings, except for this building and that creates difficulty for the property owner to maintain and attract clients. This property has three frontage roads, and it previously had a monument sign with three flag poles; the monument sign was rotting and in disrepair and had to be removed. Mr. Folks is asking the Board to grant a variance to allow an additional ground sign and the size would not exceed what would be allowed, and a display sign on the building. The preference would be to put it on the northwest face of the building which faces Skelly. None of the existing signs are visible from the residential property located behind the building. The proposed ground sign would not be visible from the residential property nor will the display sign be visible from the residential property behind the building.

Mr. Van De Wiele re-entered the meeting at 5:08 P.M.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-1 (Henke, Stead, Tidwell, White "aye"; no "nays"; Van De Wiele "abstaining") to **APPROVE** the request for a Variance of the maximum number of signs permitted in the OMH district (Section 602.B.4.a); and **APPROVE** a Variance of the maximum permitted display surface area for a proposed wall sign in the OMH district (Section 602.B.4.c). As to the variance for the maximum number of signs there will be according to the exhibit submitted today. There are six signs shown thereon which are essentially directional signs. In addition the proposed location for a monument sign, in accordance with page 12.15, may be slightly moved; however, the height and width as shown on page 12.15 shall not be exceeded. The lighting will be non-flashing and backlit. As to the wall sign, this building faces three frontage roads, is extremely odd shaped, is large, and the Board feels it would be beneficial to approve the wall sign which shall be in accordance with page 12.14 and will be located at the proposed location on the plan presented today which is designated as display sign. The Board finds that the odd shape, the frontage roads, the size of the

building are extraordinary and exceptional conditions or circumstances, which are peculiar to this land and structure, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

BLK 1 LESS BEG NEC BLK 1 TH SE161.64 SW9.6 SWLY ON CRV LF 128.45 TH S36.55 SW159.77 NW241 NE306.60 POB, ADMIRAL BENBOW ADDN RESUB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21315—Taylor King

Action Requested:

Variance of the maximum permitted coverage of a required rear yard by a detached accessory building in the RS-2 district (Section 210.B.5.a) from 25%; and a Variance of the maximum permitted height for a detached building located in the required rear yard (Section 210.B.5.a). **Location:** 1525 East 27th Street South

Presentation:

Taylor King, 3142 South Gary Avenue, Tulsa, OK; stated he is providing architectural services to and represents Renee Williams, the homeowner. Ms. Williams is rebuilding a garage structure on her estate and the hardship is that this is a very old estate built before the rear yard requirements were in place. By rebuilding the garage it exceeds the allowable area as well as the allowable height. The hardships would be if the garage were made smaller and not to match the same area as well as the height that is dictated by the architectural character of the main residence that would be a detriment to the property value and the home would lose a lot of the English Tudor character. If the allowable area in the rear yard were to be reduced to match what current zoning codes require part of an additional gazebo that was original to the estate would need to be taken down. The request today is for the Board to grant the variance requests to allow the garage to be placed where it was in the architectural style that it was as it was originally designed so long ago.

Interested Parties:

There were no interested parties present.

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 request for a Variance of the maximum permitted coverage of a required rear yard by a detached

accessory building in the RS-2 district (Section 210.B.5.a) from 25%; and a Variance of the maximum permitted height for a detached building located in the required rear yard (Section 210.B.5.a), finding that this rebuild of a garage necessitated by age and structural deterioration of the original garage is in keeping with the style and manner of the principal residence and the surrounding neighborhood. At the time the property was originally platted the current zoning limitations were not in effect. The Board finds that these are extraordinary 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 variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; subject to the conceptual plan on pages 13.8, 13.9 and 13.10 with the further requirement that the apartment above the garage not be used for commercial or rental purposes; for the following property:

LT 30, BLK 1, ROCKBRIDGE PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

* * * * *

OTHER BUSINESS

21313—Rosemary Collins

Action Requested:

Verification of spacing. **Location:** 1619 North 23rd West Avenue

Presentation:

No presentation was made; the case was withdrawn the day after the application was made and the applicant is requesting a refund for \$100.00.

Interested Parties:

There were no interested parties present.

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 request for a refund of \$100.00; for the following property:

GIL HILLS TOWNHOMES (.09 A) LOT 13, BLK 1, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS:

The Office of Development Services has made a **Request for Interpretation** regarding crematories as an accessory use. Specifically, can a crematory be considered an accessory use, customarily incidental and subordinate to a funeral home (Use Unit 11)?

Mr. Henke asked Mr. Alberty if there would an issue with moving the request for interpretation to the next Board of Adjustment meeting. Mr. Alberty stated he did not think there is any urgency.

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 **CONTINUE** the **Request for Interpretation** to the Board of Adjustment meeting on September 13, 2011.


BOARD MEMBER COMMENTS:

None.

There being no further business, the meeting adjourned at 5:25 p.m.

Date approved: _____

9/13/11



Chair