

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1062
Tuesday, January 10, 2012, 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 Back Sparger	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, January 5, 2012, at 2:58 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.

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

MINUTES

On **MOTION** of **TIDWELL**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the December 13, 2011 Board of Adjustment meeting (No. 1061).

NEW BUSINESS

21360—Esperanza Sanchez

Action Requested:

Variance to exceed from 500 square feet to 694 square feet in the RS-3 District for accessory buildings (Section 402.B.1.d). **Location:** 1049 North Sandusky Avenue East (**CD 3**)

Presentation:

No presentation was made. The applicant requested a continuance to request additional relief.

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”; none absent) to **CONTINUE** the request for a Variance to exceed from 500 square feet to 694 square feet in the RS-3 District for accessory buildings (Section 402.B.1.d) to the Board of Adjustment meeting on January 24, 2012; for the following property:

N. 74' OF W1/2 OF LT 1 BLK 1, MARYLAND GARDENS ADDN, WESTROPE ACRES, WESTROPE ACRES SUB L15-20, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

20394-B—Darell Christopher

Action Requested:

Variance to hold special events at an approved Bed and Breakfast Inn extending the five-year time limit to permanent (Section 1202.C.8.f). **Location:** 506 West Fairview Street (**CD 1, 4**)

Presentation:

John Moody, 6004 South Marion, Tulsa, OK; stated he was retained by a protestant last week and is requesting a continuance for this case to be able to review all the information and present a coherent case to the Board.

Interested Parties:

Darell Christopher, 506 West Fairview, Tulsa, OK; stated he is the owner of the Kennedy Mansion Bed and Breakfast Inn. Mr. Christopher does not understand why anyone would hire an attorney to represent a case against the Inn because in the five years he has been owner he has never received a complaint.

Comments and Questions:

Ms. Stead informed Mr. Christopher that letters had been received by the Board stating that the conditions that had been placed during the last meeting, i.e., the parking, had not been met and the Board would like to see proof of the conditions compliance.

Board Action:

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **CONTINUE** the request for a **Variance** to hold special events at an approved Bed and Breakfast Inn extending the five-year time limit to permanent (Section 1202.C.8.f) to the Board of Adjustment meeting on January 24, 2012; for the following property:

34-20-12 PART LOT 3 OF 35-20-12, PART NE SE 34-20-12 DESC AS:BEG 301.5' N & 103' W OF SE/C OSAGE COUNTY-W 256.49'-N 287.51'-E 128.87'-S~E TO A PT 130' W OF 96 TH MERIDIAN-S 139.77' TO POB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Agenda Item #18—Russell Burkhart

Action Requested:

Original applications (BOA-20604 and BOA-20689 – John 3:16 Mission) were submitted in 2008. Judgment and Decree, Case #CJ-2008-02708, came for trial whereby John 3:16 Mission was granted the Special Exception and shall for a period of three years maintain continuous nightly security patrol of its property and surrounding area unless extended by the City of Tulsa Board of Adjustment.

Location: 506 North Cheyenne

Mr. Swiney stated that he had spoken with council for John 3:16 Mission. This is the item that went to court. Judge Morrissey issued an order that implicates the Board of Adjustment. Mr. Coutant, the attorney for John 3:16 Mission, has agreed with Mr. Swiney that there are important questions and both attorneys think it would be best to take those questions to Judge Morrissey. Today’s request for continuance will give each attorney a chance to ask Judge Morrissey for clarification on her order.

Presentation:

Russell Burkhart, 752 North Denver, Tulsa, OK; stated he would agree to a continuance to receive the judge’s clarification.

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”; none absent) to **CONTINUE** Agenda Item #18 to the Board of Adjustment meeting on March 13, 2012.

UNFINISHED BUSINESS

21348—A-MAX Sign Company, Inc.

Action Requested:

Variance to allow electronic message center within 20 feet of the drive surface of a public street (Section 1221.C.2.b); Variance to allow a sign with an electronic message center to be located less than 200 feet from a designated residential area or district (Section 1221.C.2.c). **Location:** 3202 South Memorial Drive East **(CD 5)**

Presentation:

Brian Ward, 9520 East 55th Place, Tulsa, OK; stated the sign has been reconfigured to install the message in the top two tenant panels in the sign structure.

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”; none absent) to **APPROVE** the request for a Variance to allow electronic message center within 20 feet of the drive surface of a public street (Section 1221.C.2.b); Variance to allow a sign with an electronic message center to be located less than 200 feet from a designated residential area or district (Section 1221.C.2.c), per drawing #122711-06 submitted today. Noting that the height of the original sign is not increased and the top two panels of the sign will be replaced with the LED. In approving these variances there are extraordinary or exceptional conditions or circumstances, primarily the placement of the sign years ago, 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; for the following property:

PRT LT 3 BEG 408.75N SECR TH W222 N286.5 E196.75 SE35.38 S261.37 POB, INTERCHANGE CTR, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21354—Craig Thurmond

Action Requested:

Special Exception to increase the height of a screening wall in the required front yard from 4 feet to 11 feet, 6 inches (Section 210.B.3). **Location:** 4717 East 118th Street South **(CD 8)**

Mr. Van De Wiele recused himself at 1:18 p.m.

Presentation:

Craig Thurmond, 610 South Main, Broken Arrow, OK; no presentation was made.

Ms. Stead asked Mr. Thurmond why a sidewalk had not been constructed on Yale. Mr. Thurmond stated his client had already obtained a permit for the wall and Mr. Thurmond stated he is only contracted to construct the wall. Ms. Stead asked if the wall was going to be constructed on a hill, and Mr. Thurmond that it would be.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Stead, Tidwell, White “aye”; no “nays”; Van De Wiele “abstaining”; none absent) to **APPROVE** the request for a Special Exception to increase the height of a screening wall in the required front yard from 4 feet to 11 feet-6 inches (Section 210.B.3), per plan on pages 3.10 and 3.12. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

A tract of land located in the South Half of the Northeast Quarter of the Southeast Quarter (S/2 NE/4 SE/4) of Section Thirty-three (33) of Township Eighteen (18) North and Range Thirteen (13) East of the Indian Base and Meridian (I.B.&M.),

according to the U.S. Government Survey, thereof, Tulsa County, State of Oklahoma; being more particularly described as follows:

Commencing at the NE corner of the SE/4 of Sec. 33, T-18-N, R-13-E, I.B.&M.; Thence S 0°05'52" E along the east line of said SE/4 a distance of 660.04 feet to the NE corner of the S/2 NE/4 of said SE/4; Thence S 89°59'15" W along the north line of said S/2 NE/4 SE/4 a distance of 50.00 feet to the Point of Beginning; Thence S 00°05'52" E parallel with the east line of said S/2 NE/4 SE/4 a distance of 647.53 feet; Thence S 89°59'30" W parallel with the south line of said S/2 NE/4 SE/4 a distance of 549.30 feet; Thence S 00°03'07" E a distance of 12.50 feet to the south line of said S/2 NE/4 SE/4; Thence S 89°59'30" W a distance of 727.01 feet to the SW corner of said S/2 NE/4 SE/4; Thence N 00°01'46" W a distance of 659.94 feet to the NW corner of said S/2 NE/4 SE/4; Thence N 89°59'15" E a distance of 1275.52 feet to the Point of Beginning, and containing 19.17 acres, more or less, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Van De Wiele re-entered the meeting at 1:24 p.m.

21356—Epicentre Properties, LLC

Action Requested:

Determination of the non-conformity of a building with respect to required parking for Tract B (Section 1407), or in the alternative, a Special Exception to modify parking requirements for Tract B from 28 spaces to 18 spaces on an adjoining lot (Tract A)(Section 1407); and a Variance of the requirement that a landscaped area 5 feet in width be provided along the common boundary of a parking lot within Tract A and a residentially zoned lot (Section 1002.A.3), and Variance of the parking setback within Tract A from the centerline of S Atlanta Ave from 50 feet to 25 feet (Section 1302, Table 1). **Location:** 1511 South Atlanta Avenue, 2510 East 15th Street South (CD 4)

Mr. White recused himself at 1:25 p.m.

Presentation:

Roy Johnsen, Williams Tower One, One West Third Street, Suite 1010, Tulsa, OK; stated he represents Epicentre Properties, LLC and the two principals are present. When the initial application was filed, it was filed as a variance for the parking requirement on the existing building. The neighborhood was very concerned about that

request because there is a parking problem in the neighborhood as all of 15th Street does. Mr. Johnsen advised the client that building was nonconforming as to parking and that the Board has the authority under a special exception to modify the parking requirements. After consultation with the client, and what the Board was not aware of initially, the client owns the property to the south, referred to as Tract A in the Board's agenda packet, that can be converted to the proposed parking. The property where the building is located is zoned CH and the property for the proposed parking is zoned OL. An OL zoning permits parking by right as a principal use. The building was zoned CH before the zoning code was adopted in 1970, and until 1984, a CH zoning had no parking requirements. In 1984 the City of Tulsa adopted a CBD District because all of downtown was zoned CH but there were also outlying areas that were subject to the CH zoning. The City created CBD for downtown with no parking requirements and amended the CH zoning rules to require parking. In the code there is a provision that stipulates if a property is nonconforming as to parking, the property may continue as the subject use is nonconforming. This is what prompted the revised application to advise the Board that the property is nonconforming. It was in place long before there was a parking requirement. Under the code, the argument can be made that there is no parking required but there is provision in the code that if the use is changed parking must be provided for that change. The code states that the Board of Adjustment has the authority to establish the parking requirements on the nonconforming property. It is difficult to say what the uses of the property have been over the years. It has been retail and office, but at one time it was a car sales, a furniture store and at one time was part of the McKee Sewing Center. Mr. Johnsen feels that the basic development has been retail and office, and by calculating a number of half office and half retail the required parking for the property if it was not a nonconforming property would be 28 parking spaces. Mr. Johnsen is asking to establish that retail and office use may be permitted and that 18 parking spaces be provided. The proposed parking to the south is adjoined by a residentially zoned property, which triggers a requirement of the 50'-0" setback from the centerline of the adjoining street and that would be the appropriate hardship for these circumstances; therefore, a variance is being requested for the required setback. The special exception being requested sets the parameters on the permitted uses because CH zoning is so extensive.

Mr. Van De Wiele asked Mr. Johnsen if an agreement with the property owner to the east has been achieved because the proposed direction of the traffic flow in the parking lot would take traffic across the adjoining property. Mr. Johnsen stated there is a recorded easement between the property owners.

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, Van De Wiele “aye”; no “nays”; White “abstaining”; none absent) and has determined that the subject property is nonconforming with respect to required parking for Tract B, Section 1407. The Board **APPROVES** a Special Exception to modify parking requirements for Tract B from 28 spaces to 18 spaces on an adjoining lot (Tract A)(Section 1407); and **APPROVE** a Variance of the requirement that a landscaped area 5 feet in width be provided along the common boundary of a parking lot within Tract A and a residentially zoned lot (Section 1002.A.3), and **APPROVE** a Variance of the parking setback within Tract A from the centerline of South Atlanta Avenue from 50 feet to 25 feet (Section 1302, Table 1), subject to the use conditions submitted today specifically limiting this to office and retail use. Other information subject to the drawing of the Epicentre parking improvements submitted today and are on pages 4.9 and 4.14. The Board has found in granting the variances there are extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, mainly the nonconformity of this building having been built years before the present code was enacted. These 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. 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:

TRACT A: THE SOUTH FORTY-FIVE (45) FEET OF LOT TWENTY-TWO (22) AND THE NORTH FIVE (5) FEET OF LOT TWENTY-ONE (21), BLOCK ONE (1), FIFTEENTH STREET ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, AND TRACT B: E40 N5 LT 22 & E40 LT 23 & E40 LT 24 LESS PRT E40 LT 24 BEG NEC TH W40 S9.3 SE40 N18 POB BLK 1, FIFTEENTH STREET ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. White re-entered the meeting at 1:44 p.m.

21357—Andrew Shank

Action Requested:

Variance from the requirement that a sign in the Residential Multifamily (RM-1) District be lit by constant light for existing sign to accommodate for an electronic message center (Section 602.B.4.f); Variance to reduce setback from 20 feet to 18 feet from the driving surface on South 91st East Avenue and setback from 19 feet from driving surface on East 61st Street to allow for the overhang of an Electronic

Message Center added to an existing sign (Section 1221.C.2.b). **Location:** SW/c of East 61st Street and South 91st East Avenue **(CD 7)**

Presentation:

Andrew Shank, 2727 East 21st Street, Suite 200, Tulsa, OK; stated the only piece of the office park along 61st Street is the Lot 1, Block 1 where the sign is located. The property is a deep piece of property running off 61st Street, about 788 feet back from 61st Street. The points of access for the office park are South 91st Street and South 90th East Avenue, and these are the only two areas the offices in the park can be accessed with one exception, 90th East Avenue runs farther south and hooks back around to East 61st Street, winding back to Mingo Road. The point is, to gain access to the offices from those directions a person is either an UPS driver with the city grid ingrained in memory, or it is achieved by accident, or a person has been to the office park in the past. Because of the depth of the land and only having two access points, signage is particularly important for the office located in the park. Mr. Shank's client has an opportunity to alter an existing sign and incorporate the digital elements thus the request for a variance. Each office in the park is allocated 1.6 square feet of display surface area on the existing sign and they names are still difficult to read.

Mr. Van De Wiele asked Mr. Shank how eliminating the 1.6 square foot individual sign for a digital sign benefit the offices in the park. Mr. Shank stated that each office name will be displayed on the 42 square feet digital display by either displaying one name at a time or by alternating the names but the sign would be subject to the constraints the Board places on the request.

Ms. Stead informed Mr. Shank that she is opposed to the proposed sign because of the two-foot extension on each side of the existing poles.

Mr. White informed Mr. Shank that the existing non-electrical sign is illegally located as it is positioned and located on the vacant lot. The second variance being requested today is trying to validate the sign's existence when there is no excuse for the sign being installed on the lot without relief. Mr. Shank stated that the sign, as it exists today with regard to the setback, is lawful because it is a static copy and that is why the relief is worded the way it is. If the Board were to approve the digital on the currently-built structure that would trigger the 20 foot setback and the client would then be required to seek that.

Mr. Henke asked Mr. Shank if consideration would be given to resizing the sign by making it vertical rather than horizontal having the digital portion within the existing poles with three boxes for tenants. Mr. Shank stated the sign would be located within the existing posts because the posts are what triggered the setback issue, but with the sign being located within the existing posts, that is what triggers the second aspect of the relief. Mr. Henke recommended this case to be continued to January 24th, allowing Mr. Shank to bring back corrected drawings or proposal. Mr. Shank agreed.

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”; none absent) to **CONTINUE** the request for a Variance from the requirement that a sign in the Residential Multifamily (RM-1) District be lit by constant light for existing sign to accommodate for an electronic message center (Section 602.B.4.f); Variance to reduce setback from 20 feet to 18 feet from the driving surface on South 91st East Avenue and setback from 19 feet from driving surface on East 61st Street to allow for the overhang of an Electronic Message Center added to an existing sign (Section 1221.C.2.b) to the Board of Adjustment meeting on January 24, 2012; for the following property:

LT 1 BLK 1, WOODLAND VALLEY OFFICE PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

21361—Lamar Central Outdoor, LLC

Action Requested:

Verification of spacing requirements 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:** 1402 South Lewis Avenue (**CD 4**)

Presentation:

Lorinda Elizando, Lamar Central Outdoor, LLC, 7777 East 38th Street, Tulsa, OK; no presentation was made.

Interested Parties:

None.

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”; none absent) based upon the facts in this

matter as they presently exist, the Board **ACCEPTS** the applicant's verification of spacing for the outdoor advertising signs for digital or conventional billboard subject to the action of the Board being void should another outdoor advertising sign be constructed within the spacing requirements prior to this sign; for the following property:

E184' LT 5 LESS BEG NEC TH W 184 S 27.8 E 144 SE 29.7 S111.5 E 10.1 N 160 TO BEG HGWY BLK 4, TERRACE DRIVE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21363—Jim Harden

Action Requested:

Variance of the maximum permitted coverage of the required rear yard for a detached accessory building in the RS-2 District from 25% (Section 210B.5.a).

Location: 2660 South Trenton Avenue East (**CD 4**)

Presentation:

Jim Harden, J & H Remodeling, 1300 South Chestnut Avenue, Broken Arrow, OK; stated the old garage will be demolished and new garage built.

Interested Parties:

None.

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"; none absent) to **APPROVE** the request for a Variance of the maximum permitted coverage of the required rear yard for a detached accessory building in the RS-2 District from 25% (Section 210B.5.a) finding that the existing garage has deteriorated beyond reasonable repair. In granting this variance these are extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, subject to the conceptual plan on page 8.7; for the following property:

LT 14 BK 14, TERWILLEGGER HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21364—Janet G. Petty

Action Requested:

Special Exception to permit a carport in the required front yard in an RS-3 District (Section 210.B.10.g). **Location:** 1035 North Canton Avenue East **(CD 3)**

Presentation:

Janet Petty, 1035 North Canton Avenue, Tulsa, OK; no presentation was made.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Stead stated that she had driven through the neighborhood and in a two block area of two streets, Darlington and Canton, there are 20 carports. There is no relevant previous action, which means 19 of the carports are not permitted and are unlawful.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the Special Exception to permit a carport in the required front yard in an RS-3 District (Section 210.B.10.g), subject to conceptual plan 9.8. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 32 BK 2, YALE TERRACE SECOND ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21366—Anthony Nelson

Action Requested:

Special Exception to permit a duplex dwelling (Use Unit 7) in an RS-3 district (Section 401); and a Variance of the minimum required lot area for a duplex dwelling in the RS-3 district from 9,000 sq ft to 7,000 sq ft (Section 404.C.1); and a Variance of the minimum frontage requirement from 75 ft to 50 ft (Section 404.C.3). **Location:** 1104 East 36th Street South **(CD 9)**

Presentation:

Anthony Nelson, 1609 South Newport, Tulsa, OK; stated he has been the owner of the property since 1982 and there are six other duplexes in the neighborhood. He would like to replace the burned duplex with a copy of what was there, one bedroom per side and approximately 800 square feet per side.

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”; none absent) to **APPROVE** the Special Exception to permit a duplex dwelling (Use Unit 7) in an RS-3 district (Section 401); and a Variance of the minimum required lot area for a duplex dwelling in the RS-3 district from 9,000 square feet to 7,000 square feet (Section 404.C.1); and a Variance of the minimum frontage requirement from 75 feet to 50 feet (Section 404.C.3). In granting the special exception the Board has found that the original duplex built in the late 1920s burned and the Board is granting the special exception so that it may be replaced. The replacement shall 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. In granting the variances, for the same reasons that the original duplex built in the late 1920s burned and the replacement structure makes this reasons 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 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 conceptual plan on page 11.13; for the following property:

W1/2 N1/2 OF LT 1 BLK 5, PEORIA GARDENS ADDN AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21367—QuikTrip

Action Requested:

Variance of the maximum permitted height for a ground sign in the CS district from 25 feet to 60 feet (Section 1221.D.1); and a Variance of the setback requirement for a ground sign from an abutting street from 65 feet to 47 feet (Section 1221.D.1). **Location:** 1617 West 51st Street South (**CD 2**)

Presentation:

Kevin Bledsoe, QuikTrip, 4705 South 129th East Avenue, Tulsa, OK; stated the 60 foot height is being requested because QuikTrip wants to give the passing traffic a ten second lead time to see the sign.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-1-0 (Henke, Stead, Tidwell, White “aye”; Van De Wiele “nay”; no “abstentions”; none absent) to **APPROVE** the Variance of the maximum permitted height for a ground sign in the CS district from 25 feet to 60 feet (Section 1221.D.1); and a Variance of the setback requirement for a ground sign from an abutting street from 65 feet to 47 feet (Section 1221.D.1). The Board grants these variances in view of the fact that there are numerous foliages and disparities in elevation. 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 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 conceptual plan on 12.6 for location and conceptual plan on 12.7 for sign design; for the following property:

**A TRACT OF LAND IS PART OF LOTS THREE (3) AND FOUR (4), BLOCK FOUR (4), SUBURBAN HIGHLANDS, A SUBDIVISION IN THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHWEST CORNER OF LOT 3, BLOCK 4, SUBURBAN HIGHLANDS; THENCE NORTH 89°05'45" EAST ALONG THE SOUTHERLY LINE OF SAID LOT 3 FOR 25.00 FEET; THENCENORTH 00°54'47" WEST 25.00 FEET EASTERLY OF AS MEASURED PERPENDICULARLY TO THE WESTERLY LINE OF SAID LOT 3 FOR 5.00 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE CONTINUING NORTH 00°54'47" WEST PARALLEL WITH THE WESTERLY LINE OF SAID LOT 3 FOR 264.00 FEET; THENCE NORTH 89°05'45" EAST PARALLEL WITH THE SOUTHERLY LINES OF LOTS3 AND 4, BLOCK 4, SUBURBAN HIGHLANDS, FOR 365.00 FEET TO A POINT THAT IS 10.00 FEET WESTERLY OF AS MEASURED PERPENDICULARLY TO THE EASTERLY LINE OF SAID LOT 4; THENCE SOUTH 00°54'47" EAST PARALLEL WITH THE EASTERLY LINE OF SAID LOT 4 FOR 264.00 FEET TO A POINT THAT IS 5.00 NORTHERLY OF AS MEASURED PERPENDICULARLY TO THE SOUTHERLY LINE OF SAID LOT 4; THENCE SOUTH 89°05'45" WEST PARALLEL WITH THE SOUTHERLY LINES OF LOTS 4 AND 3, BLOCK 4, SUBURBAN HIGHLANDS, FOR 365.00 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

21368—QuikTrip

Action Requested:

Variance of the maximum permitted height for a business sign in the Commercial High Intensity (CH) District, abutting a designated freeway, from 50 feet to 60 feet (Section 1221.E.1). **Location:** 4970 South Peoria Avenue East **(CD 9)**

Presentation:

Kevin Bledsoe, QuikTrip, 4705 South 129th East Avenue, Tulsa, OK; stated the 60 foot height is being sought to allow the sign to be below some of the existing signs in the area, thus allowing the proposed QuikTrip sign to be visible.

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”; none absent) to **APPROVE** the Variance of the maximum permitted height for a business sign in the Commercial High Intensity (CH) District, abutting a designated freeway, from 50 feet to 60 feet (Section 1221.E.1). In granting the variance the Board has found that the QuikTrip property is several feet below the height of the existing bridge and there will be even more disparity when it is rebuilt. Therefore, the Board has found that these are extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, subject to page 13.6 for the location and page 13.7 for the sign design; for the following property:

A TRACT OF LAND THAT IS PART OF BLOCK SEVENTEEN (17), OF BLOCKS 14, 15, 16, 17, 18, 19, 20, RIVERVIEW VILLAGE, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST OF SAID BLOCK 17; THENCE SOUTH 01°13'09" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 17 FOR 300.33 FEET; THENCE SOUTH 88°49'35" WEST PARALLEL WITH THE NORTHERLY LINE OF SAID BLOCK 17 FOR 21.26 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF PEORIA AVENUE SAID POINT BEING THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE SOUTH 08°58'54" WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 86.98 FEET; THENCE SOUTH 88°49'35" WEST PARALLEL WITH SAID NORTHERLY LINE AND

ALONGSAID WESTERLY RIGHT-OF-WAY LINE 15.06 FEET; THENCE SOUTH 01°14'51" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 165.19 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF INTERSTATE 44; THENCE SOUTH 72°26'46" WEST ALONG SAID NORTHERLY TIGHT-OF-WAY LINE FOR 138.33 FEET; THENCE SOUTH 88°44'39" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 124.85 FEET; THENCE SOUTH 79°56'30" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 24.05 FEET; THENCE NORTH 01°13'08" WEST FOR 293.57 FEET; THENCE NORTH 88°46'52" EAST FOR 182.88 FEET; THENCE NORTH 88°49'35" EAST PARALLEL WITH SAID NORTHERLY LINE FOR 128.86 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21369—Tanner Consulting, LLC

Action Requested:

Variance of the maximum front yard coverage of 25% in an RS-1 District to construct a circle driveway (Section 1303.D). **Location:** 2927 South Peoria Avenue East (CD 4)

Presentation:

Ricky Jones, Tanner Consulting, 5323 South Lewis Avenue, Tulsa, OK; stated the property is part of an old subdivision plat, Lorraine Terrace, that was platted in 1930. At that time the design standards were significantly different. Today if a plat abutted an arterial street like Peoria it would discouraged that there would direct access onto Peoria. Originally the house had a circle drive, and there are several residences in the area that make use of a circle drive. Approximately three years ago the existing dwelling was razed and the circular drive was removed with a new modern house built in its place. The builder could not finish the construction project and the house sat empty under the bank's possession. A new purchaser has obtained the property and would like to reconstruct the circular drive for safety concerns, and it would be very similar to the original drive. The 18 foot width is needed to accommodate the turning radius of the circular drive. Traffic Engineering has been consulted and they think the circular drive is very good idea.

Interested Parties:

Bill Leighty, 1948 South Florence Place, Tulsa, OK; disclosed he is a real estate broker with McGraw Realtors and was involved in the transaction when the present owner purchased the property. The property has closed and Mr. Leighty has been paid so he has no financial interest in the outcome of this case before the Board. During the time the closing of the property was under way there were several contractors in the driveway and it was a nightmare. Basically, there is not enough pavement to turn a car around so cars were being backed out of the driveway into the traffic to leave the property. From the standpoint of marketing this property in the future a hardship would be not granting the request for the circular driveway.

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”; none absent) to **APPROVE** the Variance of the maximum front yard coverage of 25% in an RS-1 District to construct a circle driveway (Section 1303.D), subject to conceptual plan on page 14.7. The Board has found that due to the traffic pattern in the area on the arterial abutting street, for safety reasons, a circle drive is justified. In granting this variance the Board has found by reason of these 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:

N 42 LT 13 S 33 LT 14 BLK 2, LORRAINE TERRACE AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21370—Michael Dwyer

Action Requested:

Variance of the required street yard setback in the IM district from 25 feet to 12 feet (Section 903). **Location:** 515 South Peoria Avenue East **(CD 4)**

Presentation:

Michael Dwyer, Architect, 8930 South Erie, Tulsa, OK; stated he represents Oklahoma Central Credit Union. Since 2008 the use of credit unions has exploded dramatically and the majority of the use has been the drive-through. This credit union site has seen an increased use of the drive through by 60%. There are currently three drive-through operations located on the east side of the property, and the patrons are backing out onto 5th Street after a transaction. A request is being made to move the drive-in lanes onto the north side and add two more lanes which increase the stacking distance. The columns of the drive-through structure would hang into the setback eight feet and the roof overhang would extend another five feet.

Mr. Van De Wiele asked Mr. Dwyer which direction the traffic flow was currently. Mr. Dwyer stated the traffic flow is east to west.

Mr. Alberty stated this is an area that is being proposed for the Form Base Code. Should that be approved the setback would be a moot point because the expansion of an existing building is allowed up to 50% without need to construct a new building so the setback would be up to the property line.

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”; none absent) to **APPROVE** the **Variance** of the required street yard setback in the IM district from 25 feet to 12 feet (Section 903), subject to conceptual plan on page 15.7. The Board has found that the desired expansion will alleviate traffic concerns; i.e., cars stacking back into East 5th Street South. 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:

LTS 7 THRU 12 BLK 3, SUNSET ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21371—EasyTEL Communications, Inc.

Action Requested:

Special Exception to approve a change to previously approved site plan (BOA-19784); **Special Exception** to permit Utility/Communications facility (Use Unit 4) in an RS-3 district (Section 401); **Variance** of landscape requirements (Section 1001.E). **Location:** 10310 South Sheridan Road (**CD 8**)

Presentation:

Chuck Hanson, 5918 East 31st Street, Tulsa, OK; stated EasyTEL wants to build a small communications facility that will house fiber optic cables. It will be an unattended facility. The easement is approximately 1,390 feet and the site is almost 686,000 feet; there will be just a small portion of the green that is located next to a church parking lot for this facility.

Ms. Stead stated there is a letter from Councilman Phil Lakin requesting a six-foot solid screening fence to be placed around the property. Mr. Hanson stated a screening fence would be cheaper for EasyTEL but it would be ill-advised for security reasons. Transient people tend to hide behind solid screening fences and this proposal is next to a church parking lot and it is not known what will be going on at the church. Plus a wooden solid fence will turn grey, slats deteriorate and need to be replaced; then the

fence no longer matches while a chain link is indefinite. Primary is the safety issue in the use of a solid wood screening fence versus a chain link fence.

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”; none absent) to **APPROVE** the Special Exception to approve a change to previously approved site plan (BOA-19784); Special Exception to permit Utility/Communications facility (Use Unit 4) in an RS-3 district (Section 401); Variance of landscape requirements (Section 1001.E). The Board has found that this small utility facility approximately 10’-1” tall and 80 square feet is a masonry building within a proposed easement of a principally undeveloped portion of a church owned lot. This is intended to contain utility communication equipment and it is not intended for human occupation. This proposed utility facility is used, which is not permitted by right, in the RS-3 District and there are no parking requirements or other requirements. The Board requests the owner to construct an 8’-0” tall chain link fence with barbed wire around the top as illustrated on page 16.11, and the small building will be located as shown in conceptual plan on page 16.8. In granting the variance the Board has found that there are extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, principally the use and the small size of the structure so that 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. In granting the special exceptions the Board has found they will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 1 BLK 1, SOUTH TULSA BAPTIST CHURCH, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

20781—116 Norfolk, LLC

Original application (BOA-20781) was submitted in 2008. Judgment and Decree, Case #CJ-2009-4230, came for trial whereby 116 Norfolk, LLC was granted the variance.

Mr. Swiney stated the Board of Adjustment originally denied the requested variance for the subject sign. The case went to court and the court overruled the Board of Adjustment and granted the variance to the applicant. After performing some research and discussion with staff it seems that the judge used his discretion to grant the variance based on what was heard in the trial. If the Board of Adjustment were to try to appeal that decision the appellate court would determine if the judge did as he was supposed to. There is no reason to overturn the judge's ruling even though the Board of Adjustment thinks the judge was incorrect. There is no substantial harm being done to the public. Therefore, Mr. Swiney's advice to the Board of Adjustment is to let the judgment stand.

The Board concurred.

NEW BUSINESS:


None.

BOARD MEMBER COMMENTS:

None.

There being no further business, the meeting adjourned at 2:52 p.m.

Date approved: _____

1/24/12


Chair