

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1066
Tuesday, March 13, 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 | | Back Sparger | Swiney, Legal |

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, March 8, 2012, at 10:55 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Henke called the meeting to order at 1:00 p.m.

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 February 28, 2012 Board of Adjustment meeting (No. 1065).

NEW BUSINESS

21396—Todd Montgomery

Action Requested:

Spacing Verification for an Adult Entertainment Establishment of 300 feet from a church, school, park (Section 1212.a.C.3.b) or another Adult Entertainment Establishment (Section 1212.a.C.3.c). **Location:** 2120 South Sheridan Road East **(CD 5)**

Presentation:

No presentation was made. Per an e-mail from Mr. Paul Enix, MCP, Senior Code Official, City of Tulsa, a Certificate of Occupancy was issued in 1999 which authorizes Use Unit 12 with up to 900 occupants. After modifying the proposed floor plan with City staff, from restaurant and nightclub to a restaurant with an accessory bar, the proposed project now aligns with City of Tulsa zoning code requirements. Therefore, no Board of Adjustment relief is needed; the case has been withdrawn by the applicant.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

BEG 50W & 250S NEC NE TH S1012.56 W630.88 N1211.54 E440 S200 E200 POB SEC 15 19 13 16.76ACS, MARY FRANCES ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

21414—Todd Montgomery

Action Requested:

Variance of required parking stalls from 294 spaces to 261 spaces (Sections 1212.D, 1212a.D). **Location:** 2120 South Sheridan Road East **(CD 5)**

Presentation:

No presentation was made. This case was to work in conjunction with Case Number BOA-21396, but has been withdrawn because the project now aligns with City of Tulsa zoning requirements. The staff is recommending a refund of \$666.75.

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 refund in the amount of \$666.75; for the following property:

BEG 50W & 250S NEC NE TH S1012.56 W630.88 N1211.54 E440 S200 E200 POB SEC 15 19 13 16.76ACS, MARY FRANCES ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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UNFINISHED BUSINESS

21349—Rodney Edwards

Action Requested:

Variance to allow more than one sign (monument sign) in an OL district (Section 602.4.b); Variance of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign in an OL district (Section 602.B.4.f).

Location: 6301 South Mingo Road East **(CD 7)**

Presentation:

No presentation was made; the applicant has requested a continuance.

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 allow more than one sign (monument sign) in an OL district (Section 602.4.b); Variance of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign in an OL district (Section 602.B.4.f) to the meeting of March 27, 2012; for the following property:

W249.42 LT 16 LESS BEG SWC TH N158.15 E20 SW14.14 S148.15 W10 POB FOR RD BLK 7, BALDWIN ACRES RESUB L13-15 B7 UNION GARDENS, UNION GARDENS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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OTHER BUSINESS

Russell Burkhart

Case No. CJ-2008-2708 - the Court addressed the Motion to Clarify on February 15, 2012. The Court found that it had continuing jurisdiction and that the Board of Adjustment was delegated the authority to make a finding as per the order issued on 11-10-08.

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

LOT 5, AND THE DEDICATED ALLEY LYING OR SITUATED BETWEEN LOTS 4 AND 5, ALL IN BLOCK 3, ORIGINAL TOWN, NOW CITY OF TULSA, ACCORDING TO THE OFFICIAL PLAT THEREOF, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Presentation:

Kevin Coutant, 2 West 2nd Street, Tulsa, OK; stated several things have happened since this business was before the Board last time. The judge did refer this business back to the Board of Adjustment giving the Board jurisdiction in this matter and he has worked with the City attorney regarding the jurisdiction. In the meantime, John 3:16 Mission has worked with Mr. Russell Burkhart regarding his concerns and issues. There was a meeting with Mr. Burkhart, City Councilor Ewing, a representative of the City Police, and an executive group from John 3:16 Mission, in which all issues were discussed. Mr. Burkhart requested a letter from John 3:16 Mission to address a continuing effort to work on neighborhood issues that were a concern. That letter has been written, sent, and received by Mr. Burkhart. He has expressed that he is satisfied with the letter. Arrangements have been made to deal with community issues. Security is being dealt with on a continuing basis by the Mission as part of a program, but not necessarily as part of a mandated court order. The police have spoken with Mr. Burkhart regarding what can and cannot be done by them, and it was a productive conversation.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

Mr. Russell Burkhart has withdrawn his request; no Board action required.

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UNFINISHED BUSINESS

21382—Scott Deierlein

Action Requested:

Variance from extending 20 feet into the required front yard to 23 feet (Section 210.B.10.c); Special Exception to permit carport in the required front yard in an RS-3 district (Section 210.B.10.g); Variance of required side yard setback from 5 feet to 2 feet (Section 210.B.10.b). **Location:** 1524 South Indianapolis Avenue East **(CD 4)**

Presentation:

The applicant is not present. The case will be moved to the end of the meeting.

21392—Roy Johnsen

Action Requested:

Special Exception to permit a moderate manufacturing use (Use Unit 26) within an IL district (Section 901). **Location:** NE/c of North Osage Drive and West Apache Street **(CD 1)**

Presentation:

Roy Johnsen, One West 3rd Street, Suite 1010, Tulsa, OK; stated he represents TFT, Inc., also known as Tulsa Fin Tube Corporation. The company is a family owned business and present today is Mr. Justin Hoose if he should be needed for questions. The business is currently located on the northwest corner of Apache and Harvard. The company is wanting to expand so they have located an acreage that would be ideal for the company's future. The 44 acres was previously zoned CS and has now been rezoned to IL. The IL zoning allows for IM use by coming to the Board of Adjustment with a Special Exception request. This business manufactures fintubes and perform bending but they do not manufacture heat exchangers. All of the work is performed inside of the building with only the pipe storage being on the outside of the building. Their customers deliver the specific pipes for their job and it is stored outside the TFT building until the job is completed. The new acreage is a very unusually shaped tract and is totally surrounded by right-of-way. The Tisdale Expressway is on the east

boundary; the Osage Expressway, which is under construction, is on the north boundary; Osage Drive is on the west boundary; and Apache Street is on the south boundary, thus the entire acreage is surrounded by right-of-way and is isolated. The closest existing resident is approximately 1,500 feet away from the property with a church and a stand of trees between the proposed business and resident, thus blocking any view from the residential property.

Ms. Stead stated she had looked in the zoning code book and did not find anything pertaining to finning, bending, or cutting of pipe in Use Unit 26. Mr. Johnsen stated the business complies under the IL zoning requirements because there are no emissions or chemicals. The Use Unit 26 has been limited to within the south 17 acres using the tract for only the finning and bending business. Mr. Johnsen stated that a Use Unit 26 has a limited number of uses that are not permitted by right within an IL, and that is why the Planning Commission has said that the TFT, Inc. use is okay as they understand it to be, but they preferred the case be brought before the Board of Adjustment as an IL zoning so the appropriate conditions under an IL can be imposed.

Interested Parties:

Larry Duke, Gilcrease Home Owners Association, 1919 West Seminole, Tulsa, OK; stated the association does not have any objections to the proposed business. The only request the association would be make is to reduce the light pollution by not allowing a football stadium type lighting.

Point of information made by Mr. Swiney, he asked Mr. Johnsen which use in particular under Use Unit 26 is identified as the client's use. Mr. Johnsen stated the only thing closest to it is heat exchangers, which was concluded by City staff thus the appearance before the Board today.

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 **Special Exception** to permit a moderate manufacturing use (Use Unit 26) within an IL district (Section 901). This motion is made subject to the applicant's narrative and make it subject to the fact the proposed use is the manufacturing and bending of high frequency finned tubes of various specifications and materials which are a component part of the heat transfer industry, No other manufacturing, production, etc., under Use Unit 26 will be allowed and the business will be subject to all IL standards on emissions, etc. Any lighting shall face down so as not to shine into any neighborhood streets. This approval is subject to conceptual site plan dated March 12, 2012 submitted today. In granting this special exception the Board has found that the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; 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, OSAGE COUNTY, STATE OF OKLAHOMA

21391—Craig and Monica Smedley

Action Requested:

Variance to exceed the allowed detached accessory building floor area in the RS-3 zone to allow an 1,800 square foot detached accessory building (Section 402.B.1.d). **Location:** 518 North 39th Avenue West (CD 1)

Presentation:

Craig and Monica Smedley, 518 North 39th West Avenue, Tulsa, OK; stated he spoke with Chuck Lange with the City and he explained what could be stored in the proposed storage building. Mr. Smedley stated there would be nothing commercial stored in the building.

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 exceed the allowed detached accessory building floor area in the RS-3 zone to allow an 1,800 square foot detached accessory building (Section 402.B.1.d). This tract contains 37,461 square feet approximately and is large enough to accommodate the building requested. In speaking with the City staff it has been determined that the building is for personal storage use and no commercial use or storage. This approval is subject to conceptual plan on page 5.7. In granting this variance the extraordinary or exceptional conditions or circumstances, mainly the size of the tract and the fact that it provides for adequate livability, etc., according to the code, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**BEG NEC LT 1 BLK 1 HIGHFILL TH W306.6 N121.8 E306.4 S121.8 POB SEC 4 19
12, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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NEW BUSINESS

21395—John Duvall

Action Requested:

Variance of side yard setback from 20 feet to 15 feet (Section 403.A.5); Variance of rear yard setback from 25 feet to 10 feet (Section 403.A, Table 3). Location: 1204 East 25th Street **(CD 4)**

Presentation:

John Duvall, 1850 South Boulder, Suite 200, Tulsa, OK; stated he is an architect representing the homeowners, Brian and Patti Chalkin. The existing home sits 40 feet off the building line facing 25th Street, which places it almost the middle of the lot and that hinders the ability to expand toward the rear. The existing two-car garage with a long concrete driveway covers much of the back yard. The Chalkins' request for the remodel of their home was to create a large play area for their children and create three garage spaces. Mr. Duvall has tried to achieve those goals while maintaining the historic nature of the house. The solution was to remove the existing garage and drive and locate a new three-car garage facing Woodward Boulevard. The new garage will connect to the existing house with a lower one-story roof. By not directly attaching the garage roof to the existing house the scale of a detached building was maintained with a secondary relationship to the primary structure. The finished floor of the new garage was also lowered three feet to keep the garage in reasonable proportion in relation to the primary residence. There is a new 18 foot wide curb cut proposed for the new garage which is only 18 inches wider than the existing curb cut and that will move it farther away from the back property line thus creating about 20 feet of green space between the neighbor's concrete curb and this property's curb. There have been attempts to incorporate as many of the existing original details of the house, i.e., matching the brick, replicating the existing historic cornice and dental molding, and attempts are being made to match the existing antique green roof tile. The dormer windows on the existing garage will be replicated. There will be an existing bay window on the west side of the house removed and replaced with a new bay window. The garage doors will have radius masonry openings that match the existing doors and windows of the house. There will also be historically sized and divided windows used. Out of the 41 mailings sent out contacting people within the 300'-0" radius and there have been no negative comments received back at this point. The Chalkin's have received several comments in support of the proposed project. Mr. Duvall did contact Mrs. Davis because he knows she is interested in the variance requests in the neighborhood, and he explained the project to her. The proposed design maintains the

historic character of the house while meeting the Chalkins' functional needs of their home and be seen as a positive addition to the neighborhood.

Mr. Henke asked Mr. Duvall if the two variances requested today for the proposed project were going to be less of an encroachment on the setbacks. Mr. Duvall stated the existing garage is less than three feet from the property line and the new garage will move it farther away from the property line inward on the subject property.

Interested Parties:

Sally Davis, 2502 Woodward Boulevard, Tulsa, OK; stated the way she understands the proposed project seems to be requesting 60% more.

Mr. Henke stated the existing garage is four feet from the rear corner of the property line, and the new garage is moving farther away from the encroachment to the rear, making a 10'-6" distance from the rear of the garage to the property line and approximately 15'-0" from the side property line. That will make the new garage far less of an encroachment than where the existing garage sits today.

Ms. Davis stated this is a nationally registered historic neighborhood, and because the neighborhood is not a historic preservation neighborhood the residents need this Board to uphold setbacks. The proposed project is designed very nicely but the hard part is getting the rhythm and balance, and the scale and proportion of the buildings and the relationship of those buildings to the original neighborhood. This garage is very large and the built property on the lot is being increased by almost 60%. Also all of the original garages in the neighborhood are to the rear of the property, and to pull the proposed garage forward is out of character and rhythm of the neighborhood. If these variances are granted, it is a bad precedent to set for Woodward Boulevard.

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 side yard setback from 20 feet to 15 feet (Section 403.A.5); Variance of rear yard setback from 25 feet to 10 feet (Section 403.A, Table 3). This RS-2 zoned lot contains approximately 22,600 square feet of area. The proposed new additions of a three-car garage and remodel on the house are encroaching as shown by the motion made. This lot is an uneven size, sits on a curve, and there are problems in placing the buildings wanted. It is noted that an old garage, approximately 75 years old, is being removed from the property and there are no other out buildings. This is according to conceptual plan on page 6.8. In granting these variances the Board has found that there are extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, mainly the size and irregular shape, 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:

W 25 LT 10 ALL LT 11 BLK 10, SUNSET TERRACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

UNFINISHED BUSINESS

21382—Scott Deirlein

Action Requested:

Variance from extending 20 feet into the required front yard to 23 feet (Section 210.B.10.c); Special Exception to permit carport in the required front yard in an RS-3 district (Section 210.B.10.g); Variance of required side yard setback from 5 feet to 2 feet (Section 210.B.10.b). **Location:** 1524 South Indianapolis Avenue East (CD 4)

Presentation:

No presentation was made; Mr. Deirlein has not appeared.

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 extending 20 feet into the required front yard to 23 feet (Section 210.B.10.c); Special Exception to permit carport in the required front yard in an RS-3 district (Section 210.B.10.g); Variance of required side yard setback from 5 feet to 2 feet (Section 210.B.10.b) to the meeting of March 27, 2012; for the following property:

LT 16 BLK 1, SUNRISE TERRACE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 2:10 p.m.

Date approved: 3/27/12

Frank X. Hernandez

Chair