

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1079
Tuesday, September 25, 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 Snyder 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, September 20, 2012, at 10:09 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.

Ms. Back introduced INCOG's new Land Development Services Manager, Ms. Susan Miller. Ms. Miller has her Master's Degree in Urban Planning and she was the Assistant Planning Director for Oklahoma City. The Board welcomed Ms. Miller.

MINUTES

On **MOTION** of **TIDWELL**, the Board voted 4-0-1 (Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; Henke "abstaining"; none absent) to **APPROVE** the **Minutes** of the September 11, 2012 Board of Adjustment meeting (No. 1078).

UNFINISHED BUSINESS

21469—Tony Jordan Building Company

Action Requested:

Special Exception to increase the height of a fence in the required front yard from 4'-0" to 7'-4" (Section 210.B.3). **LOCATION:** 2141 East 30th Place **(CD 4)**

Presentation:

Tony Jordan, Jordan and Sons Building Company, 10139 Bonnie Bridge, Owasso, OK; no presentation was made but Mr. Jordan was available for questions.

Mr. Van De Wiele asked Mr. Jordan how tall the iron sections of the fence are, and Mr. Jordan stated they are five feet from the top of the stone to the top of the iron. All the columns are 7'-4" to the grade maximum, and the two stone walls on each side of the pedestrian gates are 5'-0".

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, Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to increase the height of a fence in the required front yard from 4'-0" to 7'-4" (Section 210.B.3), subject to per plan on pages 2.8 and 2.9. 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 10 LESS W 25 & ALL OF LT 11 BLK 15, FOREST HILLS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21472—J & B Graphics

Action Requested:

Variance to allow an 8 foot by 187.8 foot illuminated roof sign (east elevation);
Variance to allow a 5.4 foot by 125.2 foot illuminated roof sign (west elevation);
Variance to allow an 8 foot by 187.8 foot illuminated roof sign (north elevation/parking garage) outside the Downtown Entertainment District, within the CBD District (Section 1221.C.10). **LOCATION:** 100 South Civic Center Avenue **(CD 4)**

Ms. Snyder recused herself and left the meeting at 1:12 P.M.

Presentation:

Jackie Turner, J & B Graphics, 2130 N.W. 40th Street, Oklahoma City, OK; stated she appeared before the Board two weeks ago regarding this case. Since the meeting two weeks ago Brian Barnes and Cox Business attended a Home Owner's Association meeting. At this point Ms. Turner deferred to Mr. Barnes.

Brian Barnes, Ghost Design, 929-A North Broadway Avenue, Oklahoma City, OK; stated that he and Cox Business met with the Home Owner's Association last Thursday evening and it was a very good meeting. The Home Owner's Association had an issue with the illumination of the actual letters that comprise the sign. After some discussion it was agreed by all parties that the sign letters could be installed on a dimmer and the power to the sign itself would be dimmed at a specific hour for a specific length of time.

Mr. Van De Wiele asked Mr. Barnes by how much would the sign be dimmed. Mr. Barnes stated that after discussion with the Home Owner's Association the sign would be dimmed by 50% starting at 2:00 A.M. Mr. Van De Wiele then asked what constitutes 50% of the allowable code. Mr. Barnes stated that his was not aware of a code limit.

Bob Kolibas, City of Tulsa, Sign and Site Section, 175 East 2nd Street, Tulsa, OK; stated that under general conditions lighting is 70 foot candles at two feet, which is the industry standard for a conventional electric sign.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-1 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; Snyder "abstains"; none absent) the Board **APPROVE** the request for a Variance to allow an 8 foot by 187.8 foot illuminated roof sign (east elevation); Variance to allow a 5.4 foot by 125.2 foot illuminated roof sign (west elevation); Variance to allow an 8 foot by 187.8 foot illuminated roof sign (north elevation/parking garage) outside the Downtown Entertainment District, within the CBD District (Section 1221.C.10). The Board has found that the buildings and structures in question are unique in architecture and structure, and that the locations of the roof signs are the most feasible way of allowing the signage in question. This approval is subject to the condition that the east elevation sign will be dimmed to 50% of normal operating capacity, which is 70 foot candles at 2'-0", from the hours of 2:00 A.M. until dawn. This approval is subject to per plan drawings on pages 3.8, 3.9, 3.10 and 3.11. 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; for the following property:

ALL BLKS 125 & 126 & ALL 20 VAC ALLEY ADJ LTS 1 THRU 6 BLKS 125 & 126 & 80 VAC GUTHRIE ST ADJ BLKS 125 & 126 & N40 VAC ST BEG SECR LT 3 BLK 125 TH SE40 SW680 NW40 NE680 POB BLKS 125 & 126, ALL BLKS 129 130 154 & 155 & ALL 20 VAC ALLEYS & ALL 80 VAC GUTHRIE AV & W40 VAC FRISCO AV ADJ ON E & VAC 5TH ST BEG SWC BLK 129 TH ELY720 SLY80 WLY720 NLY80 POB & VAC 4TH ST BEG NWC BLK 129 TH NLY40 ELY680 SLY40 WLY680 POB,TULSA-ORIGINAL TOWN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Ms. Snyder re-entered the meeting at 1:21 P.M.

NEW BUSINESS

21471—Lori Worthington – A-MAX Sign Company

Action Requested:

Variance to permit a projecting sign height from 25'-0" to 62'-0" in the CBD District (Section 1221.E.1). **LOCATION:** 616 South Boston Avenue **(CD 4)**

Mr. Van De Wiele recused himself and left the meeting at 1:22 P.M.

Presentation:

Brian Ward, 9520 East 55th Place, Tulsa, OK; stated the variance request before the Board today allows the maximum height for a projecting wall sign or a ground sign. The minimum setback for such a sign is 25'-0". This particular building is located one inch behind the building setback required. Currently code allows a projecting sign to overhang the right-of-way so the setback is not an issue. The issue before the Board

today is the height of the sign. The sign in discussion today was previously located at 111 West 5th Street in Tulsa.

Mr. Henke asked Mr. Ward if the sign being discussed today is the exact same sign that was located on 5th Street, and Mr. Ward confirmed that it is.

Mr. White asked Mr. Ward if the sign was going to be mounted on the building at a 45 degree angle. Mr. Ward stated that it would be mounted at a 45 degree angle off the northeast corner of the building.

Mr. Swiney stated to Mr. Henke that he reads the site plan of the proposed sign to have wording on the spine of the sign. Mr. Henke asked Mr. Ward if there was a proposal to add text to the spine of the sign. Mr. Ward stated that he was proposing to add text to the spine of the sign, but if it were a deal breaker for this case he would relinquish the proposal. Mr. Ward stated that the drawing that is in the Board's packet is a proposal drawing that was given to Garrett Law, and he does not know it was part of the original application.

Mr. White asked Mr. Swiney if the third face on the sign would be an issue. Mr. Swiney stated that he did not know if the proposed third face on the sign is prohibited, but it sounds as though A-MAX did not apply for the third face of the sign.

Ms. Back stated that staff was not aware that there was to be proposed wording on the spine of the sign. Mr. Kolibas, from the City, was present to comment on whether the sign meets the requirements or needs additional relief.

Mr. White asked if the text on the spine of the existing sign exists or not. Mr. Ward stated that the text is not present on the existing sign.

Mr. Swiney stated that the current application only deals with the front and back of the sign, not the proposed information on the spine of the sign. The Board can approve the sign, front and back, and not deal with the spine issue. If the applicant would like to come back under a separate application that addresses the text on the spine of the sign, the Board can hear and act upon the spine issue then.

Mr. Ward stated that if the client is in agreement, the text on the spine of the sign can be stricken from the proposed drawing.

Interested Parties:

David Garrett, 2221 Forest Boulevard, Tulsa, OK; stated he finds it unusual that this is the third process he has gone through to re-install his sign. In 2004 this sign was approved by the Board of Adjustment, and because of that approval he believes that Tulsa World installed their sign. Since that time many more signs have been installed in the downtown area because of the development. Mr. Garrett stated that he is sorry his application was not properly documented to have text on the spine. He has waited three months to mount the sign, and wants to have it installed.

Bob Kolibas, City of Tulsa, Sign and Site Section, 175 East 2nd Street, Tulsa, OK; stated there is a section in the Tulsa Zoning Code, Section 1221.E.4, regarding signs. Projecting signs cannot contain more than two sides of display surface area.

Mr. Henke stated that statement simplifies the issue for the Board, because Mr. Garrett wants Garrett Law displayed on both sides of the sign.

Rebuttal:

Mr. Ward came forward and stated his client would like to seek approval to relocate and install the sign without the slogan or text on the spine. The sign in discussion is a double-sided, old-fashioned neon sign that was previously approved at another location.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Snyder, Tidwell, White “aye”; no “nays”; Van De Wiele “abstains”; none absent) to **APPROVE** the request for a **Variance** to permit a projecting sign height from 25'-0” to 62'-0” (Section 1221.E.1). This approval is for a double-sided sign only and is subject to per plan on page 4.11. Finding that the sign was previously mounted on a separate structure it is being moved to this structure with new offices. While initially the setback was an issue that was resolved in the 2004 case, this case only deals with the height; finding that the height of this sign on this structure will actually be somewhat lower than it was on the earlier structure. 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 3 & N50 LT 4 BLK 163,TULSA-ORIGINAL TOWN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Van De Wiele re-entered the meeting at 1:37 P.M.

21473—Venugopala Gattu

Action Requested:

Special Exception to permit a church (Use Unit 5) in an IL District (Section 901).

LOCATION: 9718 East 55th Place (CD 7)

Presentation:

Venugopala Gattu, 1809 North Eucalyptus Avenue, Broken Arrow, OK; no presentation was made, but Mr. Gattu was available for questions.

Mr. White asked Mr. Gattu how long his lease was for this space. Mr. Gattu stated his lease was for a three year period.

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, Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Special Exception to permit a church (Use Unit 5) in an IL District (Section 901). This approval will be for a period of three years from the date of this meeting, September 25, 2012. 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 13 BLK 9, TULSA SOUTHEAST IND DIST B5A-8 RESUB PRT BLK A TUL SE EXT, TULSA SOUTHEAST IND DIST B9-12 RESUB BLK C & PRT BLK A&B, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21475—Tanner Consulting

Action Requested:

Special Exception to exceed the maximum height of a fence within the required front yard from 4'-0" to 8'-6" (Section 210.B.3). **LOCATION:** 5606 East 111th Street South (CD 8)

Presentation:

Ricky Jones, 5323 South Lewis Avenue, Tulsa, OK; stated he represents a new owner of an unusual piece of property. The subject tract is one lot out of a total of three lots, which is an unplatted piece of property that is left over from a piece of property being sub-divided all around it. The property on all sides of the subject tract is a platted sub-division. Even with research he has not been able to determine when the property was

split. The subject tract faces 111th Street. There is an existing 8'-0" wooden fence on the frontage of 111th Street, and he has not been able to find documentation on the approval of that fence. Mr. Jones does have documentation from the previous owner to verify that stated the fence is approximately 12 years old, but the subject tract has been vacant and the property owner to the east has used it as a side yard. He has since then split the subject tract off and sold it to Mr. Jones client, who would like have a house on the subject tract. Mr. Jones's client wants to take down the existing 8'-0" wooden fence that is in the front yard and part of the side yards, and proposes to construct a new 8'-0" masonry fence that will have columns 8'-6" in height. The house will sit considerably far back on the subject tract, and the tract is 2.6 acres so it is a large tract. The property owners on the east and west sides are in agreement with the proposed fence. Mr. Jones has also contacted Traffic Engineering and they have no problem with the access point because it will be gated. The proposed fence will either be the slide in pre-cast masonry panels that are painted or it will be a hand laid brick fence, but that final decision has not been made yet.

Mr. Van De Wiele asked if the house to the east of the subject tract was going to have a new driveway. Mr. Jones stated that it will. Mr. Van De Wiele asked Mr. Jones to explain about the existing fence that is being removed, because the existing fence runs the entirety of both of the lots. Mr. Jones stated the fence on the subject tract is the only fence under application. The rear fence, which is an old CMU fence, concrete masonry unit fence or cinder block, is cost prohibitive to remove and rebuild so his client will re-texture that fence.

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, Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to exceed the maximum height of a fence within the required front yard from 4'-0" to 8'-6" (Section 210.B.3), subject to conceptual plan on page 6.6. 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:

**PRT NW NE BEG NWC NE TH S410 E240 N410 W240 POB SEC 34 18 13 2.26ACS,
FIELDSTONE ADDN, PRESTON WOODS, SOUTHERN WOODS ESTATES, CITY OF
TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

21476—Scott Arnold

Action Requested:

Verification of the spacing requirement for a liquor store of 300 feet from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3). **LOCATION:** 6560 East 51st Street **(CD 7)**

Presentation:

Scott Arnold, 7730 East 24th Street, Tulsa, OK; no presentation was made but Mr. Arnold was available for questions.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Henke stated the Board was in receipt of the survey Mr. Arnold provided.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) based upon the facts in this matter as they presently exist to **ACCEPT** the applicants request for a Spacing Verification for a liquor store in the from blood banks, plasma centers, day labor hiring centers, other liquor stores, bail bond offices and pawn shops, subject to the action of the Board being void should another referenced conflicting use be established prior to this liquor store; for the following property:

LTS 1 2 & N/2 LT 3 LESS N290 W180 LT 1, THE FARM, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21477—Francisco Anaya

Action Requested:

Variance of the parking requirement from required 22 spaces to 7 spaces to permit a bakery in the CH zone (Section 1213). **LOCATION:** 2420 East Admiral Boulevard **(CD 4)**

Presentation:

Kevin Anderson, 2510 East 26th Street, Tulsa, OK; stated he represents the Anaya family, which is a fifth generation Hispanic bakery. Anaya Bakery is located east of Lewis Avenue on the south side of Admiral Boulevard about 50 feet from a 41 space free parking lot that the City of Tulsa has constructed for this area. The whole area is part of the Kendall Whittier District which the City has been attempting to redevelop for at least 30 years. There is over 35 million dollars between Admiral Boulevard and 6th Street that has been invested in public and private funds to get the area back on its feet. The area has lost several businesses, so even with all the investment it is still a fight to

encourage new growth and development in the area. There has been a lot of effort in the Pearl District, but encouragement needs to be given to the areas that exist in the manner and form that the Form Based Code is trying to encourage. The bakery will be open from 7:00 A.M. to 9:30 P.M., seven days a week. The Anaya's have two other bakeries and there is never more than four or five cars in the parking lots at a time, but they do have a steady stream of traffic all day long. Support for this bakery was expressed through the signatures submitted to the Board. The applicant stated that the bakery will help rejuvenate the neighborhood, bring a lot people to the neighborhood, and it will be an asset to the community.

Interested Parties:

Nancy Phelps, Executive Director, Kendall Whittier Main Street Program, 601 South Lewis Avenue, Tulsa, OK; stated the Kendall Whittier Program is very excited to have Anaya family choose the Kendall Whittier area for the newest bakery. It will be a great addition to the neighborhood, not only visually, but as an asset in the economic development of the area. The Main Street Program will welcome the Anaya Bakery with open arms to the neighborhood.

Maria Barnes, 1319 Terrace Drive, Tulsa, OK; stated her neighborhood supports the Anaya Bakery moving into the neighborhood. She has visited the other two Anaya Bakeries and they are really nice.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the parking requirement from required 22 spaces to 7 spaces to permit a bakery in the CH zone (Section 1213). The Board has found that the area in question has suitable public parking and on-street parking in the immediate vicinity, and the type of business lends itself to a lower parking load than may typically be required. 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 8 BLK 5, EAST HIGHLAND ADDN RES B1, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 1:55 p.m.

Date approved: 10/9/12
Frank X. H. U.
Chair