

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1089  
Tuesday, March 12, 2013, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2<sup>nd</sup> Street

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Henke, Chair Snyder Van De Wiele White, Vice Chair	Tidwell, Secretary	Miller Bates Sparger	Edmiston, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, March 7, 2013, at 9:57 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.

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

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**MINUTES**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the **Minutes** of the February 26, 2013 Board of Adjustment meeting (No. 1088).

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**UNFINISHED BUSINESS**

**21538—Nathan Cross**

**Action Requested:**

Variance of the front yard setback from 60 feet to 52.5 feet in the RS-1 district for construction of a new single-family residence (Section 403.A, Table 3). **LOCATION:** 4421 South Atlanta Place East (**CD 9**)

**Presentation:**

No presentation was made. The applicant has requested a continuance to the March 26, 2013 hearing pending right-of-way reconfiguration.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **CONTINUE** the request for a Variance of the front yard setback from 60 feet to 52.5 feet in the RS-1 district for construction of a new single-family residence (Section 403.A, Table 3), to the Board of Adjustment meeting on March 26, 2013; for the following property:

**W121 S125 LT 16 LESS W20 THEREOF FOR ST, BARROW'S ORCHARD ACRES, REESEWOOD ADDN RESUB TR 10 & W/2 TR 15 BARROWS ORCHARD ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21539—Marcus Makar**

**Action Requested:**

Special Exception to allow a trapeze (Use Unit 20 – Not Elsewhere Classified) in a RM-2 district (Section 401, Table 1). **LOCATION:** 1918 South Boston Avenue East (CD 4)

**Presentation:**

No presentation was made. Staff has requested a continuance for this case to the hearing on April 9, 2013. The applicant has had the property rezoned to CS and the City Ordinance that was published has not gone into effect. Staff will renotify all property owners that the request is actually for a CS property. Additionally, a protestant has hired an attorney, and the attorney was present and in agreement with the request for continuance.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **CONTINUE** the request for a **Special Exception** to allow a trapeze (Use Unit 20 – Not Elsewhere Classified) in a RM-2 district (Section 401, Table 1), to the Board of Adjustment meeting on April 9, 2013; for the following property:

**LT 20 BLK 1, BOSTON ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**NEW BUSINESS**

**21537—Helen Hodges**

**Action Requested:**

Special Exception to increase the maximum allowed fence height in the front yard from 4 feet to 5 feet in a RS-3 district (Section 210.B.3) (COT Case # 100392).

**LOCATION:** 1627 North Atlanta Court East (**CD 3**)

**Presentation:**

**Robert Bailey**, 5571 South 369<sup>th</sup> West Avenue, Mannford, OK; stated that he is representing the applicant Helen Hodges. No presentation was made but the representative was available for any questions.

**Interested Parties:**

There was one interested party present, but the party chose not to come forward.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **APPROVE** the request for a **Special Exception** to increase the maximum allowed fence height in the front yard from 4 feet to 5 feet in a RS-3 district (Section 210.B.3) (COT Case # 100392; for the following property:

**LT 580 and LT 581 & W7.5 VAC ALLEY ADJ ON E BLK 45, LT 581 & W7.5 VAC ALLEY ADJ ON E BLK 45,TULSA HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

## **21540—Jefferey Baum**

### **Action Requested:**

Variance of the required side yard from 15 feet to 8.2 feet to permit a garage addition (Section 403.A). **LOCATION:** 2661 East 38<sup>th</sup> Street South **(CD 9)**

### **Presentation:**

**Jefferey C. Baum**, 2300 Mid-Continent Tower, 401 South Boston, Tulsa, OK; stated the property would like to make an addition of an attached garage. There is a creek that is on the northeast portion of the lot that makes the location of the attached garage the only practical location as depicted by the site plan. The proposed garage will have the same stone exterior as the house, and will be an extension of the existing west edge of the structure taking away a portion of the existing circular drive.

### **Interested Parties:**

There were no interested parties present.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **APPROVE** the request for a Variance of the required side yard from 15 feet to 8.2 feet to permit a garage addition (Section 403.A). This approval is subject to conceptual plan on page 5.7. The Board has found that the topography of the lot requires the garage be placed in the area designated. The addition will line up with the west side of the house and will not create a further encroachment than is currently present by this home that was built prior to the Zoning Code. 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 10 BLK 2, OAKVIEW ESTATES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

## **21541—Robert Thomas**

### **Action Requested:**

Variance of the north side yard setback from 5 feet to 2 feet - 5.5 inches in the RS-3 District (Section 403.A. Table 3). **LOCATION:** 1315 North Atlanta Avenue East **(CD 3)**

Mr. Bates stated there is a point of clarification that was brought to the Staff's attention just prior to the start of today's meeting. There is some confusion as to how the City permitting office would permit the structure and what the setback actually was. The applicant has requested the setback to be approximately two and a half feet. However, when speaking with the Senior Code Enforcer with the City of Tulsa, the building overhang would actually be considered as part of the building wall. The applicant has been made aware of this, since it would change the request to be less than two and a half feet. The applicant has agreed to revise his plans to be submitted to the City of Tulsa for a permit to meet the request that is before the Board today.

**Presentation:**

**Robert Thomas**, 1315 North Atlanta Place, Tulsa, OK; stated that he has asked many people where the measurement is to be taken from, either the footprint or the building. The building has a gambrel roofline so it is not a wall in the sense, because it will be covered with shingles not siding. He would like to keep the structure where it is but, as he was informed, the two and a half feet is what is advertised.

Mr. Van De Wiele asked Mr. Thomas how far he would need to move the building. Mr. Thomas stated that it would need to be moved eight inches to the east. The two and half foot line is the foot print of the structure, and the roofline is at 1'-9 <sup>3</sup>/<sub>4</sub>". Mr. Thomas stated that people kept giving him different opinions about the measurements.

Mr. Henke asked Mr. Bates what the advertisement charges were for this case. Mr. Bates stated that the notification fees for today's hearing were \$143.00.

Mr. Thomas stated that the original garage was 16" off the property line, so he is actually moving the garage further south and away from the property line.

Mr. Van De Wiele stated that if the case had been advertised for the 1'-9 <sup>3</sup>/<sub>4</sub>" it would not change his opinion of granting the variance request. The question is, would Mr. Thomas rather build the project as it has been presented to the Board or would want the case heard today and have to move the building over six or eight inches. Mr. Thomas stated that he would prefer to have a continuance, because the back door and the garage line up perfectly with the breeze-way.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **CONTINUE** the request for a Variance of the north side yard setback from 5 feet to 2 feet - 5.5 inches in the RS-3

District (Section 403.A. Table 3) to the Board of Adjustment meeting on April 9, 2013; for the following property:

**LT 15 BLK 5, BELLEVUE HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21542—Esther Sartain**

**Action Requested:**

Variance of the size limitation of 500 square feet to 583 square feet to permit a detached accessory building in an RS-3 district (Section 402.B.1.d). **LOCATION:** 1328 South Birmingham Avenue East **(CD 4)**

**Presentation:**

**Phil Boushon**, 9031 East 67<sup>th</sup> Place, Tulsa, OK; stated the previous structure was a two-car two-story building with a garage apartment approximately 900 square feet. That building had to be demolished due to structure failure. In place of the previous structure he had designed a one-story one-car garage with an art studio making the proposed building to look like a two-car garage.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **APPROVE** the request for a Variance of the size limitation of 500 square feet to 583 square feet to permit a detached accessory building in an RS-3 district (Section 402.B.1.d). Finding that the applicant is proposing to replace an existing garage structure with a slightly a larger garage structure with roughly the same foot print. The older garage structure is being replaced due to structural need for repair. This approval is subject to conceptual plan on page 7.7. 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 7 BLK 2, FAIR ACRES ADDN, MILES ADDN RESUB L2 B1& L2 B2 & ALL B4 FAIR ACRES ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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## **OTHER BUSINESS**

### **Request for Tulsa Zoning Code Interpretation: 1221.C.2.b and Definition**

**1221.C.2 Title 42 § C.2.** Flashing signs, digital signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be subject to the following limitations.

a. No such sign shall be located within fifty (50) feet of the driving surface of a signalized intersection. The fifty (50) feet shall be measured in a straight line from the nearest point on a sign structure to the nearest point of the signalized intersection.

b. No such sign shall be located within twenty (20) feet of the driving surface of a street. The twenty (20) feet shall be measured in a straight line from the nearest point on a sign structure to the nearest point of the street curb, or edge of the traveled roadway marked or understood as such.

#### **Chapter 18 Definitions:**

**Structure:** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, and includes buildings, parking areas, walks, fences, and signs.

#### **QUESTION:**

It has been Permitting Services' practice to utilize a horizontal plan measurement of 20 feet in the determination of 1221.C.2.b measured from the nearest point of a sign structure on the ground or "plan-projected" on the ground to the driving surface or curb. [Section 1221.C.2.a is similarly interpreted.]

Does the language support the previous 20 foot horizontal measurement or can the 20 feet be measured as an arc from zero to one hundred eighty degrees centered from the curb, up to the sign?

In addition, if a sign is mounted on a building or a pole, would either component qualify as the sign structure that shall also be outside the 20 feet limit? In other words, what technically is the "point" on a sign structure?

**COMMENTARY:**

If the 20 feet may be measured as an arc, it is conceivable that signs may be above a paved street. If the 20 feet is strictly a horizontal measure, downtown buildings often lack the 20 feet distance to set a pole. If the sign is mounted on the building, and the building is considered a part of the sign structure just like a pole holding up a sign, then buildings at zero lot line would not be able to install this class of signs.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **CONTINUE** Agenda Item 8 to the Board of Adjustment meeting on March 26, 2013.

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**NEW BUSINESS**

None.

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**BOARD MEMBER COMMENTS**

None.

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There being no further business, the meeting adjourned at 1:22 p.m.

Date approved: \_\_\_\_\_

*3/26/13*

*Frank X. Henke*

Chair