

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1104  
Tuesday, October 22, 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 Back Sparger Walker	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, October 17, 2013, at 1:40 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.

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Mr. Henke explained to the applicants that there were only four board members present at this meeting, and if an applicant would like to postpone his or her hearing until the next meeting he or she could do so. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from three board members to constitute a majority and if two board members voted no today the application would be denied. Mr. Henke asked if there were any applicants present that would like to continue their case to the next meeting. No one asked for a continuation.

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Ms. Back 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 October 8, 2013 Board of Adjustment meeting (No. 1103).

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## UNFINISHED BUSINESS

### 21624—Eller & Detrich

#### Action Requested:

Variance of the maximum sign display surface area from 32 square feet to 58 square feet in the OL District (Section 602.B.4.c). LOCATION: 5301 South Lewis Avenue East **(CD 9)**

#### Presentation:

This case was withdrawn by the applicant.

#### Interested Parties:

There were no interested parties present.

#### Comments and Questions:

None.

#### Board Action:

No Board action is required.

### 21641—James Thornton

#### Action Requested:

Variance to reduce the front yard setback from 70 feet to 47 feet in the RM-2 District (Section 403.A, Table 3). LOCATION: 1935 South Cheyenne Avenue West **(CD 4)**

#### Presentation:

The applicant had requested a continuance to the meeting of December 10, 2013.

Ms. Back stated the neighbors had conveyed to staff that they are comfortable with the continuance request.

#### 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** to reduce the front yard setback from 70 feet to 47 feet in the RM-2 District (Section 403.A, Table 3) to the Board of Adjustment meeting on December 10, 2013; for the following property:

**S17.5 LT 20 & ALL LT 21 & N10 LT 22 BLK 6, BUENA VISTA PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21642—John W. Moody**

**Action Requested:**

**Special Exception** to permit Portable Storage Building Sales in a CS District (Section 701). **LOCATION:** NE/c South Mingo Road & East 62nd Street **(CD 7)**

**Presentation:**

The applicant and staff are requesting a continuance to November 12, 2013 due to needing site plan from the client and Traffic Circulation review from Traffic Engineering.

**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 permit Portable Storage Building Sales in a CS District (Section 701) to the Board of Adjustment meeting on November 12, 2013; for the following property:

**The North 200 feet of the South Half of Lot 4, Block 3, Union Gardens Addition, an Additon to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof, LESS and EXCEPT the West 10 feet thereof for Street purposes; and**

**The South 97.60 feet of Lot 4, Block 3, Union Gardens Addition , an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof, LESS and EXCEPT the West 10 feet thereof for Street purposes; and**

**The South Half of Lot 3, Block 3, Union Gardens Addition, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21636—Eric Mikel**

**Action Requested:**

Special Exception to permit a charter school (Use Unit 5) in the RS-3 District (Section 401, Table 1); Variance to increase maximum floor area ratio from .5 to .61 (Section 404.F.1); Variance to decrease the minimum lot size from 12,000 square feet to 10,786 square feet (Section 404.F.2); Variance to decrease the minimum frontage from 100 feet to 76.9 feet (Section 404.F.3); Variance to decrease the minimum building setback from the west lot line from 25 feet to 8.5 feet (Section 404.F.4); Variance of the minimum lot area for a school from 1 acre (43,560 square feet) to 6,750 square feet (Section 1205.B.2.c). **LOCATION:** 448 East Latimer Place North (**CD 1**)

**Presentation:**

**Eric Mikel**, 11400 North Sheridan Road, Collinsville, OK; stated the charter school is located on the corner of Frankfort and Latimer Place. The building previously was a church and was built in 1959. The building is two-stories, and the school will occupy the first floor. The first floor is approximately 3,465 square feet. There will be five class rooms with four instructors. The age group for the charter school will be four year olds. The school will be open from 7:30 a.m. to 3:30 p.m.

Mr. White asked Mr. Mikel about the parking situation for the school. Mr. Mikel stated the school will provide parking on the east side of the building. The code states the requirement to be a minimum of three parking spaces but there have been five spaces designed for the building.

Mr. Van De Wiele asked Mr. Mikel what the second story would be used for. Mr. Mikel stated there are no plans for the second story. The Fire Marshall requested the second story be completely closed off until the time arrives for the use of that floor. The Fire Marshall stated that if the second floor were to be used the first floor would need to have a sprinkler system installed. So at this time the floor is closed off and will not be used for some time.

Mr. White asked Mr. Mikel how long the school had been operation. Mr. Mikel stated that this school has not been in operation because it is still under the designing phase.

Mr. Van De Wiele asked Mr. Mikel what date was projected for the school to commence operations, provided the proper approvals were granted. Mr. Mikel stated the target date is January 1<sup>st</sup>, 2014.

Mr. Van De Wiele asked Mr. Mikel how many students were anticipated to attend the charter school. Mr. Mikel stated that 100 students are required by the State of Oklahoma so that is the anticipated number to attend.

**Interested Parties:**

**Eugene Rhodes**, 440 East Latimer Place, Tulsa, OK; Ms. Rhodes stated she lives in the house right next to the subject building. She thinks this proposal is unfair to the residents of the neighborhood to be burdened with the increase in traffic, especially in the drop off and pick up times during the day for a school. The subject building currently does not have a parking lot and there is not enough lot space to build a future parking lot. The school staff, parents and visitors will be forced to park on the street and in front of the resident's homes. The neighborhood is a growing family neighborhood with active children who ride their bikes and play around their homes. The increased traffic will create a serious safety issue for the neighborhood children, and with the subject building be built very close to the street there would be a safety issue for the students as well. Her house is west of the subject building and is approximately 25 feet away from the subject building, so she feels they are almost in her yard. She requests the Board to reject the applicant's request.

Mr. Henke asked Ms. Rhodes how long she had lived in the house. Ms. Rhodes stated that she has lived in the house since 2009, and the subject building was a church when she moved into her house. Mr. Henke asked Ms. Rhodes if the subject building was being utilized as a church when she moved into the house. Mr. Rhodes stated it was a church when she moved but she never saw more than seven cars at a time at the church. Mr. Van De Wiele asked where the people that attended church park. Ms. Rhodes stated the church goers parked on the street and in front of her house.

Ms. Snyder asked Ms. Rhodes if there was not a school in the subject building would she prefer an empty building next to her house. Mr. Rhodes stated the building has been empty for awhile and it is not the best option, but the increased traffic isn't necessarily desirable either. Ms. Rhodes stated that construction has been started and the construction people tore up her yard closest to the building. Prior to Mr. Mikel being hired as a contractor no one ever said anything to her about the building or what was to happen to the building, so it was very frustrating in the beginning. The previous contractor piled dirt in her back yard and dug trenches around the subject building, and the project has been a nuisance especially because she has a toddler.

Mr. White asked Ms. Rhodes if there was a fence between the two properties. Ms. Rhodes stated there was no fence. Mr. Henke asked if the addition of a fence would be helpful to her. Ms. Rhodes answered affirmatively.

Ms. Snyder asked Ms. Rhodes if she had any ideas on what would make the building suitable for a school, or is she totally opposed to a school in the building because of the parking issues. Ms. Rhodes stated she opposes the school because of the parking issues and the increased traffic.

**Merrick Evans**, 440 East Latimer Place, Tulsa, OK; stated that he and about seven of the closest neighbors to subject building have discussed the building, and the possibility of getting rid of it. He and the neighbors would rather see the building razed rather than have it sit empty. He started a petition but he ran out of time so he does not have very many signatures, but everyone he spoke to objects to the building becoming a school.

Mr. Henke asked Mr. Evans to submit his petition so it may be entered as an exhibit and become an official document for the record. Mr. Evans handed Ms. Back the petition.

Mr. White stated that the site plan that was submitted to staff and the Board is not to scale, but even with that in mind there are some errors. The plan displays a 25 foot building line on the north and that is obviously not 25 feet. Considering the 10 foot easement in the rear, the 20 foot rear yard setback, the 35 foot building line on the east and the 25 foot line on the north, everything is significantly off and no relief has been requested. The only west side side-yard relief has been requested.

**Rebuttal:**

Mr. Mikel came forward. Mr. Henke asked Mr. Mikel if he had met with any of the neighbors. Mr. Mikel stated that he had met with several of the area residents, and he is surprised by Mr. Evans comments. When he spoke with the neighbors he let them know what the plans are, and he understood their concerns. He also let the residents know there would be a fence constructed around the subject property. The first contractor that was on the site installed a French drain, and Ms. Rhodes is correct in stating that he left dirt piled in her yard. The dirt has been graded out. Mr. Mikel stated that he let the neighbors know that he would grade the area again so the water would flow toward the street. Mr. Mikel stated that he visited with all the residents within one block of the subject property, and with the exception of one, there were no objections to the proposed charter school.

Mr. Van De Wiele asked Mr. Mikel where the attending students would be coming from. Mr. Mikel stated the students would be from the surrounding community, i.e., Pine, Peoria, Cincinnati, Sperry, and Skiatook. There will be a pick-up and drop-off location on Frankfort for the students, thus placing very little traffic on Latimer. The code requires three parking spaces and the parking lot have been designed for five spaces for three instructors and an administrator that will be at the school at all times.

Mr. Van De Wiele asked Mr. Mikel on what side of the building are the parking spaces going to be placed. Mr. Mikel stated they will be off the street on the east side of the building.

Mr. Van De Wiele asked Mr. Mikel about three instructors for 100 students. Mr. Mikel stated there would be five instructors. Mr. Henke asked Mr. Mikel about the number of five instructors because previously he had stated there would be four instructors. Mr. Mikel stated there would be five instructors and an administrator, but they will not in attendance all at the same time. There will be instructors that will have three day

classes and there will be instructors that two day classes. So there will be a total of five instructors plus one administrator for the 100 students.

Ms. Snyder asked Mr. Mikel if the 100 students would all attend the school on the same days at the same time. Mr. Mikel stated there will never be 100 students at the school at the same time.

Ms. Snyder stated the plan she has been presented does not show the parking. Mr. Mikel stated the City told him to receive Board of Adjustment approval first, then he would need to send the plans to them for further review. Mr. Henke asked Mr. Mikel who told him that. Mr. Mikel stated it was a City representative that he spoke to, and he was told that there would need to be landscaping included.

Ms. Snyder asked Mr. Mikel if there would be a fence all around the school. Mr. Mikel stated there will be a fence installed, especially since the school is for four year old children, with the exception of where the parking is located. Ms. Snyder asked what type of fence would be installed. Mr. Mikel stated there are several types of fencing and he thought he might let the neighbors decide the type of fence they would prefer to see around the yard.

Mr. White asked Mr. Mikel if all the students were dropped off at the same time in the morning and if all the students were picked up at the same time in the afternoon. Mr. Mikel stated that basically the drop offs would start about 7:00 in the morning and the latest pick up would be about 4:00 in the afternoon.

Ms. Snyder stated she still has concerns about the parking. She thinks there would need to be six or more parking spaces less than 50 feet from an RS lot line and screening. She asked Mr. Mikel if he had figured out how that was going to be accomplished. Mr. Mikel stated the City said he had to have a minimum of three parking spaces and he had planned at least five parking spaces.

Ms. Back stated that parking requirements would be based on the square footage of the building and the use specified per the code.

Mr. Evans came forward and stated that he disagrees with Mr. Mikel as to what the residents of the neighborhood want for the subject property. Mr. Henke stated that the neighbors had received notice of the hearing today, and they could have sent in an e-mail or a letter stating an opinion. Mr. Evans stated people cannot always take off work for a meeting being held at 1:00 in the afternoon.

Mr. Mikel came forward and stated that if the parking is going to be a problem it can be placed on the south side of the building which is more than enough area for the parking.

Ms. Back stated the applicant is aware that he must meet the parking requirements, and that is not something before the Board today. So he either meets the parking requirement or he must appear before the Board again for that relief. Mr. Van De Wiele

asked Ms. Back if that was for parking on the property. Ms. Back answered affirmatively. The required parking for the proposed project would have to be off-street parking on the parcel.

Mr. Henke stated the Board can continue the case to allow the applicant time to obtain corrected site plans or rule on the proposal as it is.

Mr. White stated that he thinks the traffic problem is certainly a major drawback to the project.

Mr. Van De Wiele stated that 100 children in attendance sounds like a lot of children to be utilizing only the bottom half of the subject building. Even with parents carpooling there would still be a lot of cars in the neighborhood.

Mr. Mikel came forward and stated that the State requires a charter school to have 100 students in attendance in a year's time. There are two semesters in a year so there can be 50 students in the first semester and 50 students in the second semester, or it could be 70-30, or 60-40, but for that school year there must be 100 students in attendance. There will not be 100 children dropped off at one time.

Mr. Henke stated that what the Board is trying to become comfortable with is what is that number? What would be the most at one time and what the impact on the neighborhood would be? Mr. Mikel stated that depends on the enrollment. The school may start with 35 but before the end of the year the state requires 100 students to continue funding the charter school. Also, the state would provide busing so some of the students would be arriving by bus; and depending on the amount of students enrolled there could be at least two school buses arriving and departing daily.

Mr. Van De Wiele stated that he does not have a problem with any of the Variances requested on the application, but he does have a problem with the Special Exception request. The use being a school may seem like a good idea but it is the standard or is it detrimental to the neighborhood? He would suggest a continuation to have the site plan issues addressed, get some input on student population, get input on traffic flow and allow time for the school personnel to visit with the neighbors.

Mr. Van De Wiele asked Ms. Back if contact information could be provided to Mr. Mikel so the client he is contracting for can visit with the neighbors. Ms. Back answered affirmatively.

**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 **Special Exception** to permit a charter school (Use Unit 5) in the RS-3 District (Section



401, Table 1); Variance to increase maximum floor area ratio from .5 to .61 (Section 404.F.1); Variance to decrease the minimum lot size from 12,000 square feet to 10,786 square feet (Section 404.F.2); Variance to decrease the minimum frontage from 100 feet to 76.9 feet (Section 404.F.3); Variance to decrease the minimum building setback from the west lot line from 25 feet to 8.5 feet (Section 404.F.4); Variance of the minimum lot area for a school from 1 acre (43,560 square feet) to 6,750 square feet (Section 1205.B.2.c) to the Board of Adjustment meeting on November 12, 2013; for the following property:

**LTS 1 2 BLK 5, DOUGLAS PLACE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21639—Jose G. Rodriguez**

**Action Requested:**

Variance from maximum allowable floor space for a detached accessory building from 500 square feet to 1,615 square feet in an RS-3 District (Section 402.B.1.d); Variance to allow 1,615 square foot accessory building in an RS-3 District with a top plate height of 14 feet and exceeds 20 feet in height (Section 210.B.5.a).

**LOCATION: 2301 North Lewis Place East (CD 3)**

Ms. Back stated that she had spoke with Mr. Rodriguez's interpreter that was at the last meeting, and feels fairly confident that the storage of the equipment on site is for personal tool storage that Mr. Rodriguez uses in construction work. Mr. Rodriguez is not operating a business out of the house as far as an office, invoicing and other business type duties. The interpreter is not able to attend the meeting today.

**Presentation:**

**Da'maris Soriano**, 2301 North Lewis Place, Tulsa, OK; she spoke for Mr. Rodriguez. There was no new information to provide to the Board so the Board is to make their decision based on previous testimony.

Mr. Henke asked Ms. Soriano to give affirmation to the Board that the attached accessory building is in fact for storage of equipment that is used for personal use, and that there is no business conducted on the property.

Ms. Back stated that Mr. Rodriguez is in the construction industry therefore the tools are not just for personal use around the house. The tools are his personal tools that he uses in the construction industry but there is no business operated out of the house.

Mr. Henke asked Ms. Soriano and Mr. Rodriguez to give affirmation that the tools are Mr. Rodriguez's working tools and the building is a storage unit for them. Ms. Soriano asked what Mr. Henke meant by the word "operated".

Mr. Van De Wiele asked if Mr. Rodriguez was operating a business out of the house or out of the storage facility.

Ms. Back stated the word operating means Mr. Rodriguez is not taking clients, taking phone calls, sending bills or invoices out to individuals. Ms. Back asked if Mr. Rodriguez was just storing his equipment for his construction trade that he works in the subject building. Ms. Soriano stated that is correct.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **SNYDER**, 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 from maximum allowable floor space for a detached accessory building from 500 square feet to 1,615 square feet in an RS-3 District (Section 402.B.1.d); Variance to allow 1,615 square foot accessory building in an RS-3 District with a top plate height of 14 feet and exceeds 20 feet in height (Section 210.B.5.a). This approval is subject to the as constructed building. The Board finds that due to the location and the size of the lot and the structure of the building there 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; for the following property:

**Lots 19 & 20, TULSA HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21627-Wagoner—Wilma Woodson**

**Action Requested:**

Special Exception to allow a Manufactured Home in an AG District for 20 years (Section 301, Table 1). **LOCATION:** 19409 East 21<sup>st</sup> Street South (**CD 6**)

**Presentation:**

**Rod Lacie**, 7284 East 540 Road, Claremore, OK. and **Wilma Woodson**, 19724 East Pine, #131, Catoosa, OK; both came forward together. Mr. Henke stated this case was continued from the last Board meeting, and asked if the Board had any questions.

Mr. White asked where the flood plain location map originated. Mr. Lacie asked Ms. Back to display the flood plain map on the overhead projector and he pointed out a fenceline in relation to the flood plain designation. Mr. Lacie stated that the fenceline to the floodplain line was 97 to 99 feet apart and there was a ten foot drop in that distance. Mr. Lacie also pointed out a filled in strip pit location that was on the map. From the fence line to the mobile home is 26 feet and from mobile home to the septic system is 31 feet. Mr. Lacie stated that no part of the property is in the flood plain.

Mr. Lacie stated that when Ms. Woodson started the application process one of the requirements was to have a perc test for the property. Mr. Mark Fleming with the City of Tulsa performed the perc test, and when he discovered there was a nearby flood plain he suggested Ms. Woodson get an aerobic system approved for the mobile home. There is also a water well in the southeast corner of the property. There is a concrete pad very near where the mobile home will be placed. Mr. Lacie stated that Ms. Woodson will comply with any restrictions the Board places on an approval, but he wants the Board to know that paving a driveway all the way from the road to the parking pad is impractical because this is a rural area and the land is mainly pasture land.

Mr. Henke asked Ms. Back if Ms. Woodson would be required to reappear before the Board to receive relief for the paved surface now that the property is within the City of Tulsa city limits. Ms. Back stated that if the Board were inclined to approve the relief that Ms. Woodson is seeking she would need to request that relief also. The Board is held to uphold the code restrictions and Ms. Woodson is required to pave the driving and parking surfaces.

Mr. Lacie stated that he has know Ms. Woodson for eight years and he does not see Ms. Woodson as the person that is portrayed in information that was provided to the Board previously. He thinks that information was slanderous and is considered to be a civil matter that Ms. Woodson could pursue.

Mr. Van De Wiele stated that his concerns are over the age of the manufactured home and the time span approval that is being requested. Mr. Woodson stated that he read that a mobile home a 1976 or later home is up to the discretion of the Board. Mr. White concurred and what the Board has done in the past is limit the time for the relief requested. Mr. White stated the lease Ms. Woodson has on the property is for two years and it is renewable, so if the Board is inclined to grant an approval Mr. White would like to see no more than ten years.

Ms. Back stated that the Board can hear this case and make a decision today and have the requirement for the parking and driving surface in the approval with Ms. Woodson understanding there is a possibility of additional to be needed from the Board. Mr. Henke stated he understands that and that would be his recommendation.

**Interested Parties:**

**Tony Rahlings**, 19401 East 21<sup>st</sup> Street, Tulsa, OK; stated the issue he brought up before was the spacing of the mobile home from his rear property line. He does not

have a problem with Ms. Woodson, she has been a good neighbor. The lane that enters into the property is used by others with Ms. Woodson's permission, and those people come and go at all hours of the night. He has had to call the police out in the past and he realizes that is civil, but he does not understand why the other entrance from to the property cannot be utilized. Mr. Rahlings stated that he spoke to the property owner and he was not aware of a 20 year request for the mobile home. Mr. Rahlings stated that his main issue is the traffic that comes and goes on the property. He has blocked off 21<sup>st</sup> Street, which dead ends, because of problems in the past. He always likes to know who is in his backyard but he does not have any concerns with Ms. Woodson.

Mr. Van De Wiele asked Mr. Rahlings if he had any issues with the requested location for the placement of the manufactured home. Mr. Rahlings stated that he did not have any issues with the location.

**Rebuttal:**

Mr. Lacie stated the entrance Mr. Rahlings is referring to is off 193<sup>rd</sup> East Avenue, and as of right now Ms. Woodson uses that entrance a lot to keep from disturbing the neighbors.

**Comments and Questions:**

Mr. Van De Wiele stated that he does not have any problems with the Special Exception request but he does concerns over the age of the manufactured home and the length of the request.

**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 **Special Exception** to allow a Manufactured Home in an AG District for 10 years (Section 301, Table 1) from todays date of October 22, 2013. This approval will be subject to the further condition that the manufactured home be no older than June 15, 1976. This approval is also subject to the conceptual site plan that was submitted today, October 22, 2013. The Board acknowledges the site plan is not drawn to scale but shows the general location and layout of certain fencelines and propertylines for the location of the manufactured home. In granting the 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:

**TR OF LAND IN E2 SW 7-19-15 DESC AS FOLLOWS: BEG AR SW COR OF SAID E2 - 0°09'17"W ALONG W LINE OF SD E2 A DIST OF 880' TO A PT – S 89°59'28" E 148.50' – S 0°09'17"E 880' TO S LINE OF SE SW – S 89°59'28"W 148.50' TO POB AND THE W2 OS THE SW DEC 7 T19N R15E LESSS AND EXEPT THE S338' OF THE W646' OF THE SW OF SEC 7 T19N R15E, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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## **NEW BUSINESS**

### **21645—Ike's Chili**

#### **Action Requested:**

Special Exception to permit required off-street parking to be located on a lot other than the lot containing the primary use to allow a restaurant (Section 1301.D).

**LOCATION:** 1018 & 1019 South Rockford Avenue East, 1501, 1503 & 1505 East 11<sup>th</sup> Street South **(CD 4)**

#### **Presentation:**

**Len Wade**, Ike's Chili, 409 East Aquarian Place, Jenks, OK; no presentation was made but the applicant was available for any questions.

Mr. Henke stated that the presented looked like the restaurant would be short 18 parking spaces. Mr. Wade answered affirmatively.

Mr. Henke stated the Board is in receipt of the parking agreement between Ike's Chili and Greer Appliance, the neighbor. Mr. Henke asked how many space Greer Appliances was going to provide the restaurant. Mr. Wade stated Greer has 25 parking spaces total, and at the busiest time of their operating day they may use five or six parking spaces because most of their customers park in the street.

Mr. Van De Wiele asked Mr. Wade if there would be signage on Ike's parking lot indicating where overflow parking can be found. Mr. Wade stated that has been discussed and that is something that can be done.

Mr. Henke asked Mr. Wade if the agreement was a month-to-month agreement. Mr. Wade stated the agreement is for as long as Ike's Chili is in that location. Ike's owns the property and have a long history in Tulsa, 105 years. Ike's Chili has been in their current location since 1966 and look for this to be the last move since they own the property. The subject site will be a better business location because Admiral is withering away whereas the Pearl District is growing.

Mr. Henke asked Mr. Swiney if he had looked over the lease agreement. Mr. Swiney stated that the lease agreement does not have a term to it but it does provide for monthly rent, so he would construe the agreement to be a month-to-month lease which could continue forever. Being a month-to-month lease means that either party has the power to get out of the lease.

#### **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 **APPROVE** the request for a **Special Exception** to permit required off-street parking to be located on a lot other than the lot containing the primary use to allow a restaurant (Section 1301.D). This approval will be in conjunction with the agreement between Ike’s Chili and Greer Appliances. This approval is also subject to the continuation of that the agreement on page 8.10 for this relief to be valid. Finding that based upon the facts in this matter as they presently exist the Board accepts the applicant’s shared parking agreement with Greer Appliances, located at 1018 South Rockford, to allow the overflow parking for the restaurant use to be located on a lot other than the lot containing the primary use subject to the action of the Board being void should the Special Exception for the restaurant cease to exist. This approval has the requirement that there be signage posted to indicate the overflow parking will be on the Greer Appliances parking lot. 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 5 BLK 7, LTS 6 & 7 BLK 7 -LESS S 2.6 OF LT 7, ALL LTS 4 THRU 6 & LT 7 LESS S2.5 THEREOF BLK 8, EAST LYNN ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**19659-B—Roy Johnsen**

**Action Requested:**

Modification to a previously approved site plan to permit the addition of a new parking lot with 18 parking spaces adjacent to the Case Tennis Center. **LOCATION:** 802 South Delaware **(CD 4)**

**Presentation:**

**Roy Johnsen**, 1 West 3<sup>rd</sup> Street, Suite 1010, Tulsa, OK; stated he is before the Board today representing Tulsa University. This application involves property known as Michael Case Tennis Center. The tennis center itself is located on the west side of the street with tennis courts on the east side. In 2009 there was an application filed to obtain authority for the campuses of Tulsa University for the Tennis Center, and it was granted. There is a driveway for entry on the east boundary of the building and an entry from the west boundary of the building. There are tournaments held at the center that are college level and some of them are high school level. Today’s request is addressed to parking for the staff during the day, and for coaches and referees for events.

**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 **Modification** to a previously approved site plan to permit the addition of a new parking lot with 18 parking spaces adjacent to the Case Tennis Center, subject to conceptual plans 9.22 and 9.23. Finding that the modification is compatible with and not injurious to the surrounding residential area, and meets the previously granted Variance as to the bulk and area requirements and zoning requirements; for the following property:

**LT 1 BLK 1 OF UNIVERSITY OF TULSA BLKS 1, 2, & 3, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21647—Shane Hood**

**Action Requested:**

Verification of the spacing requirement of 300 ft from a public park, school, or church for an Adult Entertainment Establishment (Bar) in the CBD District. (Section 1212a.C.3.b). **LOCATION:** 421 North Boulder Avenue West – **Tenant Space:** 410 North Main Street **(CD 4)**

**Presentation:**

**Shane Hood**, 4191 East 26<sup>th</sup> Place, Tulsa, OK; no presentation was made but the applicant was available for any questions.

Mr. Henke stated the Board is in receipt of the applicant’s survey, and he asked the Board if they had any questions.

**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) based upon the facts in this matter as they presently exist to **ACCEPT** the applicant’s request for a **Spacing Verification** for an adult entertainment establishment, subject to the action of the Board being void should another conflicting use be established prior to this adult entertainment establishment; for the following property:

**S3 LTS 2 & 7 & ALL LTS 3 THRU 6 & 20 VAC ALLEY ADJ THEREOF & N30 VAC STREET ADJ ON S BLK 8,TULSA-ORIGINAL TOWN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21545-A—Jim Thornton**

**Action Requested:**

Variance (Board approval) to reposition a previously approved sign within the proposed right-of-way, pending City approval of license agreement (Section 1221.C.14); and a Modification to a previously approved site plan (BOA-21545).

**LOCATION:** 840 West 81<sup>st</sup> Street **(CD 2)**

**Presentation:**

**Lowell Peterson**, 12205 South Yukon, Glenpool, OK; stated he is before the Board today representing Jim Thornton. Mr. Thornton was before the Board in March 2013 and received two Variances for the sign. One was for an electronic message center and the other was to allow the sign within 200 feet of a residential area. There was a condition placed on the approval that the sign be off at 8:00 p.m. and by agreement with the City it was extended to 10:00 p.m. It was then discovered that the site plan that was designed by a third party had located the sign too far from the street to be effective. The new dimensions does place the sign in a proposed right-of-way in the event that 81<sup>st</sup> Street is widened in the future. The license agreement with the City of Tulsa is going through the process system, and he spoke with Angelina Folkes who has told him the agreement has gone through everything except for City Council and the Mayor's signature.

Mr. Van De Wiele asked if the sign would be within 50 feet of the driving surface's signalized intersection. Mr. Peterson answered no. Mr. Van De Wiele asked if the sign would be within 20 feet of the street. Mr. Peterson answered no. Mr. Van De Wiele asked if the sign would exceed an illumination of 70 foot candles. Mr. Peterson stated that the sign installer has told him that it would not exceed the 70 foot candles. Mr. Peterson stated that the sign installer has assured him the sign will meet all city code requirements.

**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 (Board approval) to reposition a previously approved sign within the proposed right-of-way, pending City approval of license agreement (Section 1221.C.14); and a



Modification to a previously approved site plan (BOA-21545), subject to the modified conceptual site plan on page 11.35 showing the proposed location of the sign. This approval is further subject to the conditions of the execution and recording of the sign licensing and removal agreement on the form presented to the Board on pages 11.30 through 11.34. Finally, this approval is subject to the conditions specified on page 11.4 of the Board's agenda packet with the understanding that in restriction #1 the sign is not be operated between the hours of 10:00 p.m. to 7:00 a.m.; the conditions on page 11.4 are as follows:

1. No such digital or EMC sign shall be operated between the hours of 10:00 p.m. to 7:00 a.m. There is to be no blinking, twinkling, flashing, rolling or animation. Scrolling will be only from right to left.
2. No such sign shall be located within 50 feet of the driving surface of a signalized intersection. The 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.
3. No such sign shall be located within 20 feet of the driving surface of a street. This 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.
4. No such sign shall exceed an illumination of 70 foot candles measured at a two (2) foot distance.
5. No such sign shall display an illuminative brightness exceeding 500 NITs at any time between one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise or 6,500 NITs between one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset.
6. No such sign shall display an illuminative brightness of such intensity or brilliance that it impairs the vision or endangers the safety and welfare of any pedestrian, cyclist, or person operating a motor vehicle.
7. No such sign shall resemble or simulate any warning or danger signal, or any official traffic control device, sign, signal or light.
8. No such sign shall be permitted to operate unless it is equipped with:
  - a) a default mechanism that shall freeze the sign in one position or static message if a malfunction occurs; and
  - b) a mechanism able to automatically adjust the display's illuminative brightness according to natural ambient light conditions by means of a light detector/photo cell by which the sign's brightness shall be dimmed.

This includes conditions patterned after the provisions of paragraphs a, b, c, d, e, f, g and h of Section 12221.C.2 of the Tulsa 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. The Board finds that the modified site plan to be compatible with and non-injurious to the surrounding residential area and meets the previously granted Variance to the bulk and area requirements, meets the zoning requirements per code or Special Exceptions granted to the code; for the following property:

**BEG 1822.25W NEC NE TH S436 W269.75 N436 E269.75 POB LESS BEG 1966.77W  
NEC NE TH S32 W42.31 N32 E42.31 TO POB SEC 14 18 12 2.671ACS, CITY OF  
TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**OTHER BUSINESS**

None.

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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 2:36 p.m.

Date approved: 11/12/13  
Frank X. [Signature]  
Chair