

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1108
Tuesday, January 14, 2014, 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		Miller Back Sparger Foster	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, January 9, 2014, at 1:18 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; Snyder "abstaining"; none absent) to **APPROVE** the **Minutes** of the November 26, 2013 Board of Adjustment meeting (No. 1106).

On **MOTION** of **WHITE**, 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 December 10, 2013 Board of Adjustment meeting (No. 1107).

UNFINISHED BUSINESS

21667— Kinslow Keith and Todd – Nicole Watts

Action Requested:

Variance for off-premise sign in the RM-2 District to permit a project identification and Electronic Message Center billboard sign (Section 1221.F.1); Variance from sign orientation being primarily visible from the freeway (Section 1221.F.7); Variance to allow two signs per street frontage of a lot and increase the maximum display surface area from 147.2 square feet to 213 square feet (Section 402.B.4.a.b).

LOCATION: 7515 South Riverside Drive West (CD 2)

Presentation:

The applicant has requested a continuance to the February 25, 2014 Board of Adjustment hearing.

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 **CONTINUE** the request for a Variance for off-premise sign in the RM-2 District to permit a project identification and Electronic Message Center billboard sign (Section 1221.F.1); Variance from sign orientation being primarily visible from the freeway (Section 1221.F.7); Variance to allow two signs per street frontage of a lot and increase the maximum display surface area from 147.2 square feet to 213 square feet (Section 402.B.4.a.b) to the Board of Adjustment meeting on February 25, 2014; for the following property:

A PART OF LOTS ONE (1), TWO (2), AND THREE (3), BLOCK THREE (3), RIVER GROVE SUBDIVISION, A DULY RECORDED SUBDIVISION LOCATED IN SECTION 7, TOWNSHIP 18 NORTH, RANGE 13 EAST, OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, OKLAHOMA, WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT: COMMENCING AT THE SOUTHEAST CORNER OF LOT 1, BLOCK 3, RIVER GROVE, AS THE POINT OF BEGINNING; THENCE SOUTH 88°36'50" WEST A DISTANCE OF 72.89 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY FOR THE RIVERSIDE PARK-WAY; THENCE NORTH 37°46'15" WEST ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 545.06 FEET TO A POINT OF CURVATURE; THENCE ALONG A 44,939.56 FOOT RADIUS CURVE TO THE LEFT, HAVING AN INITIAL TANGENT BEARING OF NORTH 37°46'15" WEST, A CENTRAL ANGLE OF 0°12'46" FOR AN ARC DISTANCE OF 166.89 FEET TO A POINT ON THE WEST LINE OF LOT 3, BLOCK 3; THENCE

NORTH 1°25'42" WEST ALONG SAID WEST LINE A DISTANCE OF 35.88 FEET TO A POINT; THENCE NORTH 88°17'18" EAST ALONG THE NORTH BOUNDARY OF BLOCK 3, RIVER GROVE AND THE SOUTH RIGHT OF WAY OF EAST 75TH PLACE SOUTH A DISTANCE OF 495.00 FEET TO A POINT; THENCE SOUTH 1°25'42" EAST ALONG THE WESTERLY BOUNDARY OF BLOCK 8, KENSINGTON II AMENDED, A DISTANCE OF 611.60 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINING 181,038.27 SQUARE FEET OR 4.1561 ACRES, MORE OR LESS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

21671—Moura A. J. Robertson, Esq.

Action Requested:

Appeal the determination of an Administrative Official, the Tulsa Preservation Commission, for approving the Certificate of Appropriateness for 5-unit townhouse project (Section 1605). **LOCATION:** NW/c of East 17th Place & South Quincy Avenue (1730 South Quincy Avenue) **(CD 4)**

Presentation:

The applicant has requested a continuance to the February 25, 2014 Board of Adjustment hearing.

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 **CONTINUE** the request for an Appeal the determination of an Administrative Official, the Tulsa Preservation Commission, for approving the Certificate of Appropriateness for 5-unit townhouse project (Section 1605) to the February 25, 2014 Board of Adjustment meeting; for the following property:

LT 8 BLK 23, ORCUTT ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21672—Harvey C. Graubeger

Action Requested:

Variance to reduce the rear yard setback from 20 feet to 17.54 feet in the OL District (Section 403.A, Table 3). **LOCATION:** 4830 South Zunis Avenue **(CD 9)**

Presentation:

The applicant has requested a continuance to the February 11, 2014 Board of Adjustment hearing.

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 **CONTINUE** the request for a Variance to reduce the rear yard setback from 20 feet to 17.54 feet in the OL District (Section 403.A, Table 3) to the February 11, 2014 Board of Adjustment meeting; for the following property:

LT 5 LESS N30 THEREOF BLK 3, BOLEWOOD PLACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

Staff to discuss Section 1221.C.2 pertaining to Electronic Message Centers (EMC) in residential zoning districts.

Some, or All, Use Conditions* Customarily Imposed by the Board of Adjustment in Approvals of Digital and Electronic Message Center (EMC) Signs in R Zoned Districts

1. No such Digital or EMC sign shall be operated between the hours of _____ P.M. to _____ A.M. There will be no blinking, twinkling, flashing, rolling, or animation. Scrolling will be only from right to left.
2. 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.

3. 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.
4. No such sign shall exceed an illumination of seventy (70) foot candles measured at a two (2) foot distance.
5. No such sign shall display an illuminative brightness exceeding five hundred (500) NITs at any time between one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise or six thousand five hundred (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.

*Includes conditions patterned after the provisions of paragraphs a, b, d, e, f, g, and h of Section 1221 C.2. of the Tulsa Zoning Code.

Ms. Back stated that staff is requesting this item be continued to the January 28, 2014 Board of Adjustment hearing because we were not sure there would be a full Board in attendance today.

No motion is required on this item.

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NEW BUSINESS

21666—Eric Rollerson

Action Requested:

Variance from maximum allowable floor area for a detached accessory building from 500 square feet to 2,400 square feet in an RS-3 District (Section 402.B.1.d).

LOCATION: 2410 East 54th Street North (CD 1)

Presentation:

This application has been withdrawn.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

N/2 NW SW NW & SE NW SW NW LESS .73AC TO COUNTY & W30 S280 N/2 NW SW NW FOR RD SEC 8 20 13 6.58ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

21666—Eric Rollerson

Action Requested:

Variance from maximum allowable floor area for a detached accessory building from 500 square feet to 2,400 square feet in an RS-3 District (Section 402.B.1.d).

LOCATION: 2410 East 54th Street North (CD 1)

Presentation:

This application has been withdrawn and a refund of \$100.00 has been requested.

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 **Refund** of \$100.00; for the following property:

N/2 NW SW NW & SE NW SW NW LESS .73AC TO COUNTY & W30 S280 N/2 NW SW NW FOR RD SEC 8 20 13 6.58ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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UNFINISHED BUSINESS

21653—Nathan Cross

Action Requested:

Variance of off-street parking requirements of 56 total spaces for all three retail spaces to 11 total spaces to accommodate a restaurant concept in the 3,450 square foot space formerly occupied by Ciao Restaurant (Section 1212.d and Section 1214.d). **LOCATION:** 3302 – 3310 South Peoria Avenue East **(CD 9)**

Presentation:

Nathan Cross, 502 West 6th Street, Tulsa, OK; stated the current tenant mix would require 56 off-street parking spaces, and there are currently 11 parking spaces. There were three parking spaces on Peoria Avenue but when the landscaping was installed it deleted two parking spaces leaving only one space. There is also one small space that is large enough to possibly park a scooter. This is a 6,200 square foot space that has only 11 off-street parking spaces available, which is space per 569 square feet. There is not tenant mix available that fits with the main street building block designation in the CH Zoning, which is the zone the building is located in, that has a generous enough parking ratio that will allow the building to be adequately parked. In the past, the applicant has allowed individual tenants to solve their own parking issues. In 2006 the Board approved a request for a Variance for Ciao Restaurant subject to some restrictions which included leasing parking spaces during the off hours from an adjacent office park. The lease agreement for the parking spaces expired in February 2009. Crow Creek Office Park has told the applicant that they did want the responsibility of monitoring the parking lot and the payment issues. Due to those issues they are unwilling to work with today’s applicant. The applicant has spoke with the Bank of Oklahoma regarding parking, and they have taken the stance that they want to be good neighbors but are not going to enter into a formal lease agreement. Now the applicant is out of options for acquiring additional parking for the building. The applicant would like to keep the current tenant mix because it is thought to complement Brookside. The applicant is a real estate agent, and she tells Mr. Cross that people in this area want a

walkable consumer area with restaurants and retail shops. The problem is the building precedes the zoning code, and because of that has inadequate parking.

Mr. Henke stated he remembers the case in 2006, and the Board was able to support it because of the lease agreement for the additional parking spaces at the Crow Creek Office Park.

Mr. Cross stated that the purpose here today is for the applicant, as the owner of the building, to take some ownership and control over this process so they are not continually revisiting this Board and requesting new relief if the tenant makes a change.

Mr. Van De Wiele asked Mr. Cross where the proposed tenant intends for the customers to park. Mr. Cross stated his client faces what a lot of businesses in the Brookside area face. If there were an analysis of all the reciprocal parking agreements that overlay Brookside it would be found that many of them are oversold. He is not sure how businesses have adequate parking for the expected customers.

Mr. Henke stated that is the problem in Brookside, and to exacerbate that by adding to the additional parking requirements of a proposed tenant is being injurious to the surrounding neighbors. Mr. Henke asked Mr. Cross if he felt he had exhausted all possibilities to enter into a parking lease. Mr. Cross stated that possibility is a relative term. In approaching this Board the client wanted realistic opportunities. He has spoken with some business owners and there is no more parking nearby.

Mr. Van De Wiele asked Mr. Cross that if the proposed business should be a restaurant, and he wanted to visit and parked in the Crow Creek Office Park or the BOK parking lot would he be taking a chance that either one of those business would boot his car? Mr. Cross stated that is always a possibility. Mr. Cross stated that BOK has essentially said that they will not enter into an agreement during off hours, as long as a person is not interfering with their business they are noncommittal about people using their parking lot. Crow Creek has said they want no one parking in their lot that is not part of the office park. Unfortunately, because of the deterioration of the relationship between the previous tenant of the subject building and management of Crow Creek Office Park, they have decided it is too much of a responsibility. They have taken the stance that if it is allowed in the evening their parking lot will also be invaded during the daytime or peak working hours.

Mr. Van De Wiele asked if there was input received from the Brookside group. Mr. Henke stated that there had been input received from them in the previous case. Mr. Cross stated that he has reviewed everything he could find on the subject parcel, and he has not received any input from people that have spoken up in the past, and he does not believe staff has received any comments.

Ms. Back stated Mr. Cross is correct in saying that staff did not receive any comments, and all the neighborhood associations were notified.

Mr. Van De Wiele stated he is struggling in understanding the hardship exhibit. The way he reads it is, basically, there is not enough room for 56 parking spaces because the building is too big for the small sized parking lot. Mr. Cross stated the relationship between the building footprint and the off-street parking lot is the discrepancy between the two is far larger than it is in other area of Brookside. In order to maintain a tenant mix that is in harmony with the envisioned operation and growth of Brookside, there is no retail, restaurant, coffee shop that has a 1 to 569 parking ratio.

Ms. Back stated that when CH zoning went into effect, before June 1984, there were no parking requirements in the CH zone.

Mr. Henke stated the problem this Board has is that they cannot grant Variances that are going to be detrimental to the neighborhood. He is a fan of Brookside and wants to see Brookside continue to flourish and grow, but to add a large number of cars on the street cannot be supported by him.

Ms. Back stated that she understands the concerns of the Board, but something to focus on in Brookside and Cherry Street is the City is attempting to turn those areas into more of a walkable community for the neighborhoods. Times are changing for the Brookside and Cherry Street areas. Mr. Henke stated that he appreciates Ms. Back's input but unless a person lives only a block or two away from an establishment they are not going to walk.

Mr. White stated that over the years the Board has approved some very creative parking solutions in Brookside and Cherry Street. This Board does not want to analyze the number of spaces that have had Variances granted for. The basic problem is the code creates the hardship. The CH started before the parking requirement was instituted thus creating the problem. The number of spaces that have been granted may seem somewhat unrealistic for Brookside and Cherry Street, but they are somewhat self regulating. If a customer cannot find a place to park they will go elsewhere. The business may fail. This is one of those things that a potential business person must be very much aware of the problem. Based on what the Board has done in the past, and the fact this is Brookside, this will be a self regulating problem.

Mr. Henke stated that the request still adds a significant burden on the residential streets of the neighborhoods. Mr. White stated that is true but it has been that way for years, but that is part of the ambiance of Brookside so to speak.

Ms. Snyder asked Mr. Cross if the building was still built out as a restaurant. Mr. Cross stated that it is and that is one of the motivations to want approval for parking for a restaurant. With no interested parties being present at today's hearing tells her the people in the area are willing to have a restaurant in that location, and recognize there really is not another option for the building. No matter what is in the building there will be a parking problem. Due to the lack of opposition Ms. Snyder stated she is willing to support the request for relief.

Mr. Tidwell stated this is a very difficult case. When Ciao went in there was additional parking available for the restaurant, but he is inclined to oppose the approval of the request for relief today. It is a frustrating situation.

Mr. Cross stated that everyone that you speak to says they want to be a good neighbor and help out with the problem, but no one wants to enter into an agreement because of the liability that is attached.

Mr. Tidwell asked if the Crow Creek Office Park had the attitude of do not park here, or more of the stance that BOK has taken. Mr. Cross stated that Crow Creek Office Park has the attitude that they are not real happy with past results so they are inclined to say do not park on the Crow Creek Office Park lot.

Mr. Tidwell asked if the restaurant that is looking at the subject building would be open during the work day during the week, or if they would be open only after 5:00 P.M. Mr. Cross stated there is not a definite tenant in place. Part of this process is to come before the Board and present the entire scenario so there would be no issues with a potential tenant.

Mr. Van De Wiele asked how the parking requirement was calculated. Was it calculated as a restaurant and bar, or just as a restaurant. Ms. Back stated staff calculated the parking requirements on the most restrictive use. The parking requirements for an adult entertainment establishment, or bar, one parking space per 75 square feet while the restaurant parking requirement is one parking space per 100 square feet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-2-0 (Snyder, Van De Wiele, White “aye”; Henke, Tidwell “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Variance of off-street parking requirements of 56 total spaces for all three retail spaces to 11 total spaces to accommodate a restaurant concept in the 3,450 square foot space formerly occupied by Ciao Restaurant (Section 1212.d and Section 1214.d). Finding the hardship to be the fact that the Zoning Code is overly restrictive to the CH zoned area, and these properties that were actually in place before the CH zoning was created. The CH zoning has no parking requirements puts an undue burden on the property owners of the properties within the CH zone. This goes along with the concept of all the other parking reliefs that have been given in the past, based on the same situation of the CH zoning with a former no parking requirement situation. 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:

W115 LT 1 & PRT VAC ST BEG NWC LT 1 TH N20 E TO PT SW TO PT W115 POB BLK 5, BROOKSIDE ADDN AMD, CROW CREEK OFFICE PARK RSB L2-4&9&PTL5-8&18B5 BROOKSIDE, PEBBLES ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21656—Neosource, Inc.

Action Requested:

Variance of the required setback from an R district from 75 feet to 7 feet in an IL District (Section 903, Table 2). **LOCATION:** 9422 East 55th Place South **(CD 7)**

Mr. White recused himself at 1:45 P.M.

Presentation:

Bill Graif, 9422 East 55th Place, Tulsa, OK; stated Neosource has been in business since 1989 and have 20 employees in a 15,000 square foot building. The business abuts a residential area, and the proposed building will be placed on the rear of the subject property. The existing building takes it deliveries in the rear. The proposed building will be used strictly for the storage of flat stock sheet metal to be used for the water jet cutting machines. There will be industrial activity or machines in the proposed building.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 4-0-1 (Snyder, Tidwell, Van De Wiele, “aye”; no “nays”; White “abstaining”; Henke absent) to **APPROVE** the request for a Variance of the required setback from an R district from 75 feet to 7 feet in an IL District (Section 903, Table 2), subject to per plan 4.16. Finding due to the location of the entry of the building and the drive it is more advantageous for the proposed building to be in the rear of the lot within the 75 foot setback. This approval is with the condition that the proposed building only be used for storage. The applicant, Neosource, Inc. is to maintain the fence. 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 25 BLK 1, WOODLAND VIEW PARK EAST, 5300 COMMERCE PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. White re-entered the meeting at 1:54 P.M.

21659—Terrill Jones

Action Requested:

Special Exception to permit a carport in the required front yard (Section 210.B.10.g); Variance to allow the structure to cover an area of 20'-0" x 22'-0" (Section 210.B.10.a). **LOCATION:** 2340 West 44th Street South **(CD 2)**

Presentation:

Terrill Jones, 2340 West 44th Street, Tulsa, OK; stated the carport was installed in the first part of November 2013.

Mr. White asked the carport posts were set in concrete. Mr. Terrill stated they were not. There are four mobile home anchors holding the whole structure in place and it will withstand winds up to 135 mph.

He has the carport set the way it is because he wanted three inches on each side of the driveway which clears the driveway allowing him to install the anchors in the ground.

Mr. Van De Wiele asked if the carport was against the house. Mr. Jones stated the carport does not touch the house because he was going install guttering so the rain would flow away from the carport.

Mr. Jones stated that he went through the neighborhood and there is a carport around the corner from his property that is just six inches from the street. He wanted a carport that had more structural integrity than anything that exists in the neighborhood. He originally built the carport to keep his ill wife out of the weather, but now that she has passed on he will probably sell the house. Mr. Jones thinks the carport would be an asset for the new owner.

Mr. Henke asked Mr. Jones if he had visited with his neighbors concerning the carport. Mr. Jones stated that he had not visited with the neighbors. Mr. Jones stated that no one has come to him to express any concerns or objections. Mr. Jones stated that he

was unaware of the permit requirements, because people didn't have to have a permit for a carport in the past as long as the carport was not attached to the structure.

Interested Parties:

Claudine Bates, 2333 West 44th Street, Tulsa, OK; stated she had attended the December Board of Adjustment hearing regarding this case, and she objected then and still objects today for the same reasons. Ms. Bates stated that Mr. Jones may have spoken to Mr. Gibbons but he had not spoken to her or her husband. Ms. Bates stated that Mr. Gibbons does have a carport on the side of his house, but it is a lot different than the carport Mr. Jones has erected. Ms. Bates thinks the carport erected by Mr. Jones will not be a selling point for Mr. Jones home and it will not enhance the value of any home around it.

Ms. Back stated there are different permit requirements for carports that are placed on the side of houses versus carports placed in the front yard of a house.

Gerald Bates, 2333 West 44th Street, Tulsa, OK; stated the house with the carport on the side is not located within the subject housing addition. Mr. Bates thinks the carport erected by Mr. Jones is not safe for anyone. He believes it would take winds less than 135 mph to dislodge the carport from its location.

Rebuttal:

Mr. Jones came forward. Mr. Henke stated the main objection is that the carport is out of character for the neighborhood. Mr. Jones stated that it depends on the individual character that is making the statement. There are different characters in the neighborhood. Mr. Jones thinks it is a classy carport and was built by a reputable contractor. He sent pictures of the neighborhood and asked for a carport designed to fit into the character of the neighborhood. The contractor sent three photos and he chose the carport that he had installed. He has the carport for obvious reasons and that is to protect his car.

Comments and Questions:

Ms. Snyder thought it was interesting that the carport is too wide but not too long. In the past carports that have come before the Board since she has been a member have had more support than this carport.

Mr. Van De Wiele stated the size of the carport does not concern him, because looking at the subject driveway he can understand why the carport is built the way it is built. His concern is if the carport is injurious to the neighborhood or detrimental to the public welfare. Typically the carport he is in favor of is something that matches the character of the neighborhood and the home, so it looks like it belongs. This carport seems to be a temporary structure, so he does not think he can support this request.

Mr. Henke agreed with Mr. Van De Wiele's statement.

Mr. Tidwell stated the subject carport does not fit into the neighborhood. It is large and does not blend into the contour of the rooflines of the home. He cannot support this request.

Mr. White stated that he has an issue with the structure of the carport. It is basically a carport on skids. If Mr. White were to approve this request he would the condition placed on the approval that permitting must examine the plans and construction of the carport. This carport is 440 square feet and he feels that stating it would take 135 mph wind to dislodge the carport is being very generous. The traditional carport is posts set into concrete, and the subject carport, not attached properly, can become a wonderful sail.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **DENY** the request for a **Special Exception** to permit a carport in the required front yard (Section 210.B.10.g); **Variance** to allow the structure to cover an area of 20’-0” x 22’-0” (Section 210.B.10.a) finding that that structure as it exists today is not in harmony with the neighborhood and would be injurious to the neighborhood, or otherwise, be detrimental to the public welfare; for the following property:

LT 12 BK 3, SHERWOOD FOREST, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

21665—Tamika McElroy

Action Requested:

Spacing verification for a liquor store in the CH District from blood banks, plasma centers, day labor hiring centers, other liquor stores, bail bond offices and pawn shops (Section 1214.C.3). **LOCATION:** 12 North Utica Avenue East (**CD 1**)

Presentation:

Tamika McElroy, 12 North Utica Avenue, Tulsa, OK; no presentation was made but the applicant was available for any questions.

Mr. Henke acknowledged the receipt of the applicant’s survey.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **TIDWELL**, 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 (Section 1214.C.3), 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:

LT 21 BLK 8, LT 22 BLK 8, LTS 23 & 24 LESS BEG SECR LT 24 TH W80.7 NE113.13 S80 POB FOR HWY BLK 8, LYNCH & FORSYTHE'S ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21668—Tally Alame

Action Requested:

Variance of the required parking spaces for expansion of restaurant (Use Unit 12) from 13 spaces to 0 spaces (Section 1212.D). **LOCATION:** 1102 South Yale Avenue East **(CD 4)**

Presentation:

Tally Alame, 1102 South Yale Avenue, Tulsa, OK; stated he wants to expand Tally's Restaurant to have a bar to coincide with the culture of people that want to get their kicks on Route 66. A bar will allow the tourists that travel Route 66 to come in for a chilled glass of beer or a glass of wine.

Ms. Back stated that the parking was calculated on a full restaurant based on the comments of the Letter of Deficiency, the parking was not calculated as a bar. The numbers that are being quoted are incorrect if Mr. Alame is in fact installing a bar into the restaurant. This case would need to be readvertised properly to incorporate the correct number of parking spaces and that Mr. Alame is expanding to add a bar not a restaurant.

Mr. Alame stated the bar will be connected to Tally's Good Food Café because he is just expanding an existing space. It has been his experience that when the Europeans are traveling Route 66 they are disappointed when they cannot purchase a cold glass of beer or a wine.

Mr. Henke stated that he thinks this is a restaurant with an accessory bar. Ms. Miller stated this in fact could be a restaurant with an accessory bar, but this is the first staff is hearing about a bar. Ms. Back agreed with Ms. Miller and stated the parking had been calculated as the site being 100% a restaurant. A bar needs to be parked at one

parking space for every 75 square feet while a restaurant is parked at 1 parking space for every 100 square feet. All of the parking calculations were completed as if the site were a restaurant, Use Unit 12. The Letter of Deficiency does not quote anything regarding a bar so it will be news to the City also.

Ms. Miller asked Mr. Alame if this request is for an actual expansion of the restaurant, or if there is a separate bar being created on the subject site. Mr. Alame stated everyone will use the main entrance to the restaurant and a person would access the bar from within the restaurant.

Mr. Henke stated that he believes Mr. Alame is before the Board today to request an expansion for the restaurant, and have an accessory bar to the restaurant. Mr. Henke asked staff if it would be necessary to readvertise the case for additional relief, or can this case be heard as it was advertised "13 parking spaces to 0 parking spaces". Ms. Miller stated that from has been heard today she believes it would be okay to hear the case as it has been advertised. Ms. Back stated it would be okay to hear the case, but when Mr. Alame goes into the permitting office he will need to stay within the parameters or he will be back before the Board requesting additional relief.

Interested Parties:

Femi Fasesin, Architect, 421 South Olympia Avenue, Tulsa, OK; stated the expansion plan has already been given to the City of Tulsa. At the time the plan was presented to the City it was stated the expansion will be an accessory bar. Mr. Fasesin stated that a man at INCOG had told them that due to the size of the bar and the fact that it was an accessory bar relative to the restaurant the bar would be allowed. Also, if it were not an accessory bar it would not be allowed next to the church.

Ms. Back stated the point of confusion is that the restaurant is allowed to have an accessory bar, but the discussion is for parking. The discussion is not whether the restaurant is allowed to have a bar. The discussion needs to be focused on whether the parking calculations are correct. If the Board is inclined to approve this request today and it will be approved for only what was advertised, and the applicant will need to stay within those parameters. Or the applicant will need to come back before the Board to request more parking relief.

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 Variance of the required parking spaces for expansion of restaurant (Use Unit 12) from 13 spaces to 0 spaces (Section 1212.D). Finding there will be no additional building done from the structure as it currently exists, the modification will be for the inside only. The restaurant is expanding from within an existing structure. Also, finding there is an overflow parking agreement with the church located south of the subject property and

the church has ample parking spaces for the activities of the restaurant and the church. 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:

E124.130 LT 1 & N1.95 LT 2 BLK 1, LTS 1-2 E 4 OF LT 3 BLK 1, EMMONS ADDN, MCBRIDE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Tidwell left the meeting at 2:23 P.M.

21669—Rogers & Associates, Inc. – Glen Rogers

Action Requested:

Special Exception to increase the height of a fence in the required front yard from 4 feet to 8 feet (Section 210.B.3). **LOCATION:** 4302 South Atlanta Avenue East (CD 9)

Mr. Tidwell re-entered the meeting at 2:26 P.M.

Ms. Back asked the Board to make a note of the fact that the subject property has two addresses attached to it, and the applicant is still in the process with the City sorting out which address they would like to have. The second address that is attached to the house is 4144 South Atlanta Avenue East but the legal description has remained the same.

Presentation:

John Marouk, 4144 South Atlanta Avenue, Tulsa, OK; stated he is building the house and it is almost complete, he is just waiting for the approval for the special exception on the fencing. The house is fairly large and is offset on the subject lot. He is wanting the fence as protection for his family. In looking through the neighborhood there are several houses that have a special exception for fencing; some of the fences are approximately eight feet in height. The proposed fence will not be eight feet in height for the entire length of the fence, only the gates will be eight in height at the peak.

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 feet to 8 feet (Section 210.B.3), subject to per plans 10.14, 10.15 and 10.16. 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 8, BLK 1, 41ST STREET & LEWIS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21670—Steve Olsen

Action Requested:

Variance to increase the maximum height for a detached accessory building from 18 feet to 25 feet to permit a pergola (Section 210.B.5.a). **LOCATION:** 2202 South Madison Avenue East **(CD 4)**

Presentation:

Steve Olsen, 3303-A South Harvard, Tulsa, OK; stated this request is for a detached pergola on top of an existing carport. The main house sits higher than the garage, and the owner would like to keep the pergola in the style of the house. The garage is in the same style as the house except it has a flat roof, so the owner would like to use roof as a covered area for the kids play. There is an existing evergreen screening border between the subject property and the neighbor.

Mr. Tidwell asked if there would be anything installed on top of the proposed pergola since it will be 25 in height. Mr. Olsen stated there would be nothing added, the 25 feet is the finished elevation.

Interested Parties:

Steve Welch, 219 Sunset Drive, Tulsa, OK; stated he is a neighbor of the property owner and lives three doors away. He is the President of the Maple Ridge Neighborhood Association. He is in favor of the proposed project. The garage is not in harmony with the house and by adding a pergola with a tile roof will make a big difference.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SNYDER**, 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 to increase the maximum height for a detached accessory building from 18 feet to 25 feet to permit a pergola (Section 210.B.5.a), subject to conceptual plan 11.25. Finding that the existing structure at this time is not in harmony with the neighborhood and adding the rooftop pergola will make the building fit in with the character of the neighborhood and the existing home on the subject property. 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:

LOT 7 BLK 5, SUNSET PARK AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21117-A—Jeremy Perkins

Action Requested:

Modification of the conditions of a previously approved Variance (BOA-21117) to allow the second story to be used more than just storage area and to eliminate the condition of electricity being the only utility. **LOCATION:** 2116 East 24th Street South **(CD 4)**

Presentation:

Jeremy Perkins, 2200 South Utica Place, Suite 216, Tulsa, OK; stated the original request for an accessory building was approved in 2010. The conditions placed on that approval was to use the space only as an attic. Since that time the owner has decided he would like to utilize the space for more than an attic. The owner would like to now utilize the space as a game room and have more utilities other than just electricity.

Mr. Henke asked if there were any plans to rent the proposed space. Mr. Perkins stated that the City of Tulsa will not allow it. Part of the approval from the City is that the home owner sign a letter stating the space will not be rented and will solely dependent upon the home for the utilities.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SNYDER**, 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 Modification of the conditions of a previously approved Variance (BOA-21117) to allow the second story to be used more than just storage area and to eliminate the condition of electricity being the only utility; for the following property:

ALL LT 8 & E12 INCHES LT 9 BLK 3, WILDWOOD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21673—Max Taylor

Action Requested:

Variance of the minimum lot width from 200 feet to 130.45 feet to permit a Lot Split in an AG District (Section 303, Table 3). **LOCATION:** 3806 North Columbia Avenue East (**CD 1**)

Presentation:

Max Taylor, United Built Homes, 15815 East Skelly Drive, Tulsa, OK; stated the hardship for this case is the shape of the lot. The purpose for this request is so the owner can build a new home on the north side of the five acres.

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 Variance of the minimum lot width from 200 feet to 130.45 feet to permit a Lot Split in an AG District (Section 303, Table 3), subject to per plans 15.10, 15.11 and 15.12. Finding in order to obtain the average lot width necessary on this tract it is necessary to have a pandhandled shaped lot so the property owners can build a home a portion of the lot, and still leave the original home on the property while maintaining ownership of the existing home. 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:

**S/2 LT 3, BARRETT & EVANS SUB, MOHAWK MANOR ADDN, CITY OF TULSA,
TULSA COUNTY, STATE OF OKLAHOMA**

21674—Eller & Detrich – Andrew Shank

Action Requested:

Variance of the requirement that illumination of a sign shall be by constant light to permit a digital sign for a church in the AG district (Section 302.B.2). **LOCATION:** 10901 South Yale Avenue East **(CD 8)**

Mr. Van De Wiele recused himself from the meeting at 2:43 P.M.

Presentation:

Andrew Shank, 2727 East 21st Street, Tulsa, OK: stated he is representing Christ Church Episcopal. The church owns approximately 4.75 acres on 109th and Yale, on the east side of Yale. There is approximately 29,000 square feet of facilities that serve the community. The enormous size of the tract and of the facilities speak to the hardship in this case. The existing sign is a traditional static copy with no digital. This request is to replace that bulletin marquis area with digital technology. There is a screening fence to the south that is approximately 202 feet to that property line from the sign. To the west there is a screening fence in place that is approximately 120 feet from the sign to the fenceline. To the north there is another screening fence in place with heavy vegetation. The sign itself is screened because of its location and it is a smaller sign. Due to its size and the distance from the surrounding residential property he feels the sign is appropriately screened, and does think it will be detrimental to the neighborhood.

Mr. Henke asked Mr. Shank what the total height of the sign to be. Mr. Shank stated he believed it is 9'-6" at the apex. The applicant is not asking to have the sign any larger or taller, they are just requesting to have the middle piece replaced which is approximately 25 square feet.

St. James Church, at 111th and Yale, which is located near the subject church have a much larger sign. The Board granted to allow the electronic message center and that message center is approximately 20 square feet. Redeemers Church located at 101st and Yale have a much larger sign and their digital piece is approximately 70 square feet. Christ Church Episcopal plans to landscape an island area around the sign to address the Board's traditional concerns of digital signs. The Church proactively wrote letters to the neighbors in the surrounding area and received one letter against the sign request. There was one telephone call to the church that was in favor of the sign. The church is not interested in a flashing or animated sign, and is willing to limit the hours of operation. In light of the existing signs in the area, the small of the existing sign and its

proximity to the surrounding residential area he requests approval for the Variance request.

Mr. White asked Mr. Shank if the digital sign will be in the same location and same outside dimensions as the existing static sign, and if the display area will be same size as the one vandalized. Mr. Shank answered affirmatively.

Ms. Snyder asked Mr. Shank what height the digital element will be. Mr. Shank stated that it will be approximately five feet which is below the fence line.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Snyder, Tidwell, White “aye”; no “nays”; Van De Wiele “abstaining”; none absent) to **APPROVE** the request for a Variance of the requirement that illumination of a sign shall be by constant light to permit a digital sign for a church in the AG district (Section 302.B.2). This will for adding a digital element to the existing sign. The location and size of the existing sign will not be changed. The digital element will be replacing that which is currently backlit. The hours of operation of the sign will be from 6:00 A.M. to 10:00 P.M. This will be a static display but it will be changeable for the static display. All other conditions of Section 1221.C.2 of the Tulsa Zoning Code shall apply, or per page 16.4 in the Board’s agenda packet as listed below:

1. No such digital or EMC sign shall be operated between the of 10:00 P.M. to 6:00 A.M. There will 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. The 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 foot distance.
5. No such sign shall display an illuminative brightness exceeding 500 NITs at any time between one-half hour after sunset until one-half hour before sunrise, or 6,500 NITs between one-half hour before sunrise until one-half 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.

*Includes conditions patterned after the provisions of paragraphs a, b, d, e, f, g, and h of Section 1221 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; for the following property:

**PRT SW SW BEG NWC SW SW TH E580.08 S375 W580.8 N375 POB LESS W33
THEREOF SEC 27 18 13 4.716ACS, HUNTERS BEND, SOUTHERN OAKS
ESTATES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

Mr. Van De Wiele re-entered the meeting at 2:55 P.M.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

There being no further business, the meeting adjourned at 2:56 p.m.

Date approved: 1/28/14

Chair