

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1121
Tuesday, July 22, 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 White, Vice Chair	Van De Wiele	Miller Moye Sparger Hoyt	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on Thursday, July 17, 2014, at 10:23 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

The Board Members tabled the Minutes for July 8, 2014, Meeting #1120, and are to be approved at the next meeting.

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 the applicants if they understood and asked the applicants what they would like to do. The applicants nodded their heads in understanding and no one requested a continuance.

UNFINISHED BUSINESS

21740—Michael Clark (Osage County)

Action Requested:

Special Exception to allow a manufactured home in RS-3 District (Section 404, Table 1); Special Exception to extend the one year time limit to ten years (Section 404.E); Variance of the 25 feet front yard setback to 15 feet to permit a manufactured home (Section 403, Table 3). **LOCATION:** 1521 West Oklahoma Street **(CD 1)**

Presentation:

The applicant was not present.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **TIDWELL**, the Board voted 4-0-0 (Henke, Snyder, Tidwell, White “aye”; no “nays”; no “abstentions”; Van De Wiele absent) to **CONTINUE** the request for a Special Exception to allow a manufactured home in RS-3 District (Section 404, Table 1); Special Exception to extend the one year time limit to ten years (Section 404.E); Variance of the 25 feet front yard setback to 15 feet to permit a manufactured home (Section 403, Table 3) to the August 12, 2014 Board of Adjustment meeting; for the following property:

BEG SECR LT 7 BLK 3 LINDSEY ADD TH S345.78 W273.59 TO PT ON EL LT 7 RICHARDS RESUB BLK 5 OF LINDSEY TH S4.34 W105.50 NW14.21 N180 E269 N160 W37.5 N10 E157.5 POB BLK 6 LINDSEY ADD, LINDSEY 1ST ADDN, RICHARD'S SUB B5 LINDSEY ADDN, RIVERBEND GARDENS RSB PRT B6 & 7 LINDSEY ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

21742—Robert Mitchell

Action Requested:

Variance to allow a detached accessory structure to exceed 40% of the size of the home (Section 402.B.1.d). **LOCATION:** 3823 West Archer Street North **(CD 1)**

Presentation:

Robert Mitchell, 3823 West Archer Street, Tulsa, OK; stated this request is to be able rebuild an accessory building because the original one burned down.

Mr. White asked Mr. Mitchell about his plat showing the proposed building being built in an easement. Mr. White stated that this Board should not approve a structure that is going into a known easement, which creates a violation. Mr. Mitchell stated that he has both the easements vacated.

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, Tidwell, White “aye”; no “nays”; no “abstentions”; Van De Wiele absent) to **APPROVE** the request for a Variance to allow a detached accessory structure to exceed 40% of the size of the home (Section 402.B.1.d). Finding that the lot is half acre in size located in a RS-3 District so it is quite large for the conditions. The applicant is replacing a building that was destroyed by fire. This approval is on the condition that INCOG receives a copy of the release of the two easements in question on the plat of survey, and subject to conceptual plan 3.9. 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:

W/2 LT 2 & ALL LT 3 BLK 2, CARLSON ADDN AND LOTS 1-6, BLOCK 1, CARLSON ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21743—Wallace Engineering – Carolyn Back

Action Requested:

Variance of off street parking setback from required 75 feet to 65 feet for an addition of a parking lot for an existing school in the R District (Section 1302.B, Table 1).

LOCATION: 10222 South Yale Avenue East (CD 8)

Presentation:

Carolyn Back, Wallace Engineering, 200 East Matthew Brady Street, Tulsa, OK; stated she represents Jenks Public School for the addition of a new parking lot. During the A.M. and P.M. drop off and pick up times there are a lot of automobiles that stack up on Yale Avenue, and this has become a great safety concern of the school, the children and the neighbors. The school would like to expand the parking lot and add a double stack lane for the cars so they don't have to sit on Yale. A double stack lane would allow 30 cars to be waiting for a drop off or pick up. There is a water easement that runs diagonally through the school property, and the school is up against the front of the property thus not meeting the 75 foot setback line but can meet 65 feet.

Interested Parties:

Larry Broussard, 4719 East 104th Street, Tulsa, OK; stated the north side of his property borders the school's property for 153 feet of the southeast corner of the school's lot. There was a basketball court located where the parking lot is currently located, and now the basketball court is relocated adjacent to his back yard within ten feet of the property line. At the property line there are two fences; a chain link fence and a five foot tall wooden fence. He understands the need for a school in a residential area, and he understands the need to be neighborly but when the basketball court was relocated to that close to his yard it created a lot of issues. During school session he retrieves balls from his yard, and during the after school hours young men gather on the court creating a loud ruckus and use a lot of profanity. He has six children and he does not want his children to see or hear this. The basketball court is within 50 feet of his patio and he has an issue with that. He believes it devalues his property. There are times of the day that he will not be able to use the patio or backyard because of basketball court problem. Also, in the past people have come into his yard inannounced to retrieve basketballs and when they leave the gate is left open allowing his dog to leave the yard. With the basketball court being this close to his yard he believes that there will be basketballs in his yard all the time, not just a few times as in the past. The basketball court used to be a good distance away from his yard and he would like for the school to relocate the basketball court.

Teresa Dunbar, 4522 East 103rd Street, Tulsa, OK; stated her street is a deadend street, ending at the back of the school playground area. There is already a problem with the parents dropping off their children on the deadend and the children then scale her five foot fence to get to the school. This practice is more prominent in the winter when the parents do not want to get out onto 101st Street. She has even seen parents climb her fence. With the proposed additional parking, and if they move the basketball court closer to the neighborhood, there will be increased traffic on her street. The

children do gather at the school in the evening, and there have been drugs there. She and her neighbor took a poll on her street and there are concerns over increased traffic and an increase in parents who have no concern for the neighbors they are impeding upon. The area is growing so how much more is the school going to expand in the future, and how will the expansion encroach on their properties. She bought a house on a deadend street for a reason, and she does not want to see the street opened up allowing traffic easier access to the parking lot. She thinks the information she received in the mail is as clear as mud, and she would like to have a clearer idea of exactly what the school is proposing. The school has already placed a chainlink fence around the playground equipment which tells her the school is already anticipating breaking ground for the project. That bothers her because that does not show any respect for the neighboring property.

Julie Boucher, 4512 East 103rd Street, Tulsa, OK; stated she lives next door to Ms. Dunbar. She stated there are several residents on her street that are very concerned about this proposal. As a lay person she finds this proposal to be very difficult to understand and how they want to be access the parking lot. The proposed parking lot looks very large to her. There seems to be no mention of an access in or out of the parking lot. Her greatest concern is that the deadend street will no longer be a deadend and will become a through street for people to drop off or pick up their children. She believes this would significantly decrease property values of the neighborhood, hers included. She does not think this proposal is necessary. This is a public school that has public busing, and she thinks the current parking is adequate.

Mr. Henke asked Ms. Boucher if she had seen the cars backed up onto the street. Ms. Boucher stated that she teaches school at Edison High School, and when she leaves Edison she uses Yale and turns right onto the street so she has seen the cars parked along 101st Street waiting for the children. She rarely finds that the cars are waiting in line to get into the parking lot because it is after 3:30 when she reaches 101st Street. She has seen parents park on the street for events such as back to school night and parent/teacher conference night. She sees the need for additional parking for those extra events but for drop off and pick up she does not see the need for additional parking.

Teresa Dunbar came forward and stated that it is true on the special event nights like the parent/teacher conferences that 101st Street and Yale have parents parking on the grass. She was in a car accident and been going to therapy so she is in and out of the neighborhood a lot during the afternoon hours so she has seen this a lot. The parents would rather have their children walk out to the street because it is hard to get into and out of the parking lot. Parents should utilize what already exists rather than build more space that will not be used.

Rebuttal:

Ms. Carolyn Back came forward. She stated that in order to construct the two double stack lanes to get the cars off the street and be able to use the new exit the basketball court had to be relocated. The playground and the basketball court have to go

somewhere. The existing solid fence is actually the neighbor's fence, and the school has a chain link fence. Ms. Back suggested the school install a taller screening fence, and install a net around the basketball court so balls cannot escape the playing area. Wherever the basketball court and the playground are placed there will still be children noises. It is still a school.

Mr. Henke asked Ms. Back if there had been a meeting with the neighbors prior to today. Ms. Back stated that she had not spoke with any of the people before today's meeting. Mr. Henke suggested the case be continued to allow Ms. Back time to meet with the neighbors. He wants to avoid an ongoing dialogue with the neighbors. Ms. Back stated that construction has begun but there is a lot shown on the site plan that is not before the Board today, but it is not part of the proposed changes before the Board today. Ms. Back requested a continuance to August 12th.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Tidwell, White "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **CONTINUE** the request for a Variance of off street parking setback from required 75 feet to 65 feet for an addition of a parking lot for an existing school in the R District (Section 1302.B, Table 1) to the August 12, 2014 Board of Adjustment meeting; for the following property:

LT 1 BLK 1, RESERVE A, JENKS SOUTHEAST CAMPUS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Ms. Miller informed the Board that Mr. Michael Clark had arrived. Mr. Henke acknowledged his presence and requested a motion to rescind the earlier vote of continuation for BOA-21740.

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Tidwell, White "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **RESCIND** the Motion to Continuance of Case BOA-21740, Michael Clark.

21740—Michael Clark (Osage County)

Action Requested:

Special Exception to allow a manufactured home in RS-3 District (Section 404, Table 1); Special Exception to extend the one year time limit to ten years (Section 404.E); Variance of the 25 feet front yard setback to 15 feet to permit a

manufactured home (Section 403, Table 3). **LOCATION:** 1521 West Oklahoma Street (CD 1)

Presentation:

Michael Clark, 1521 West Oklahoma Street, Tulsa, OK; stated he purchased the property from a friend and the friend had informed him that a mobile home has been previously on the land. He purchased a manufactured home for the site under the assumption that since there had already been a mobile home on the land before he would not have to do all of this. The plumber hooked up to the existing plumbing and the electrician was able to hook up to an existing pole. He and his wife wanted to quit renting and have a place of their own.

Mr. White asked Mr. Clark when the manufactured home was installed. Mr. Clark stated that the manufactured home was placed on the property around the beginning of 2014.

Mr. White asked Mr. Clark if the manufactured home was new. Mr. Clark stated the manufactured home is a 2008 model.

Mr. White asked Mr. Clark if the manufactured home was placed back 15 feet instead of the required 25 feet because of the slope of the ground. Mr. Clark stated that he thought that was the reason, because there was chat brought in to place the mobile home on.

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, Tidwell, White “aye”; no “nays”; no “abstentions”; Van De Wiele absent) to **APPROVE** the request for a Special Exception to allow a manufactured home in RS-3 District (Section 404, Table 1); Special Exception to extend the one year time limit to ten years (Section 404.E); Variance of the 25 feet front yard setback to 15 feet to permit a manufactured home (Section 403, Table 3). The Board has found for the Variance that the 15 feet as opposed to the 25 feet was necessary because of the topography of the land dropping off significantly to the north, and the mobile home had to be placed farther south than it should have been. This approval is as built. 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. 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:

ALL OF THE E 50 FT OF THE W 100 FT OF THE S/2 OF THE W/2 OF LOT TWO (2), BLOCK THREE (3), LOMBARD SUBDIVISION OF THE SW/4 OF THE SE/4 OF SECTION 27, TOWNSHIP 20 NORTH, RANGE 12 EAST OF THE INDIAN BASE AND MERIDIAN IN, CITY OF TULSA, OSAGE COUNTY, STATE OF OKLAHOMA

21744—Wallace Engineering – Carolyn Back

Action Requested:

Special Exception to permit used car sales (Use Unit 17) in a CS District (Section 701); Variance to permit open air storage and display of merchandise offered for sale within 300 feet of an adjoining R District (Section 1217.C.2). **LOCATION:** 711 South Lewis Avenue East **(CD 4)**

Presentation:

Carolyn Back, Wallace Engineering, 200 East Matthew Brady Street, Tulsa, OK; stated this if for an existing auto dealership. They were able to purchase the property that is to the north of their property. The new acquired property is 37 feet wide by 100 feet deep. The new property is in the CS District and to use that size lot for a commercial use is very difficult. The client would like to be able expand their parking lot into the new area. They will complete the necessary landscaping for the north, west and east sides, and they will install one light that will be shielded and aimed down and away. The new light will be installed on the 50 foot mark from the back property line. They will also plant one tree which is required by code. The back screening fence currently is a solid wood, and they would like to expand that with a solid blue metal fence because it is easier to maintain and heartier for the weather. They would also like to extend the screening fence on the north property line up 40 feet to shield the parking lot from the restaurant's garbage area. They would also like to meet the chainlink fence that is on the front of their property.

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, Tidwell, White "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a Special Exception to permit used car sales (Use Unit 17) in a CS District (Section 701); Variance to permit open air storage and display of merchandise offered for sale within 300 feet of an adjoining R District (Section 1217.C.2). The Board has found that the

hardship for the Variance is that this is a legal non-conforming lot that is only 37.5 feet wide by 100 feet deep. This lot will be added to the lot for the car sales to the south which have already been combined. This approval will be per conceptual site plan exhibits that was submitted today, July 22, 2014. 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. 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:

S37.5 LT 1 BLK 2, HIGHLANDS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21745—Acura Neon, Inc. – Yoko Lam

Action Requested:

Variance to permit a digital sign in a RS-3 District for Park Plaza Church of Christ (Section 402.B.4.A). **LOCATION:** 5925 East 51st Street South **(CD 5)**

Presentation:

Peter Janzen, Acura Neon, Inc., 1301 North Willow Avenue, Broken Arrow, OK; deferred to the interested parties before presenting his case.

Interested Parties:

John Shadley, 5111 South Kingston Avenue, Tulsa, OK; stated he does not oppose the sign but he would like some clarification. He downloaded a document from the INCOG website regarding this case, and it is titled "Some or All Use Conditions Customarily Imposed by the Board of Adjustment Approval of Digital and Electronic Message Center Signs in R and AG Zoned Districts". Mr. Shadley asked the Board if they were familiar with the document. Mr. Henke stated that the Board is very familiar with the conditions. Mr. Shadley is concerned about the wording of "customarily imposed". He would like to know if they are going to be imposed in this case. One of the conditions states there will be no blinking, twinkling, flashing, rolling, or animation and scrolling will only be from right to left. Mr. Shadley asked the Board if that would be imposed in this case. Mr. Henke answered affirmatively. Mr. Shadley asked if there will be any changing of colors allowed on the sign. Mr. Henke stated that the question will be asked of the applicant but he believes it is a color sign and it is a changeable copy. Mr. Shadley stated the copy would not bother him but the background of the sign changing in colors. Mr. Henke stated it is a color sign that is proposed. Mr. Shadley asked the Board if items 4, 5, and 6 of the conditions were going to be imposed. Mr. Henke answered affirmatively.

Wes Paulson, 5033 South Joplin Avenue, Tulsa, OK; stated he lives on the northeast corner of 51st and Joplin making him the closest house to see the sign from his backyard. He has lived in the house for 40 years and the church has been a good neighbor for the most part. He finds it hard to believe a church would need a digital sign because they have a nice sign now. He believes there has been a precedent set because there is an electronic messaging sign at 51st and Hudson a couple of years ago, and fortunately that sign did not last long. Fortunately, he has some evergreens growing in the back yard but they are 45 years old. He can still light through them and if they should come down for any reason he believes a digital sign would provide enough light that he could save electricity for four rooms of his house. He does not see a reason for a digital sign and he objects to the sign proposal.

Mr. White stated that the reason sign at 51st and Hudson came down was because this Board decided that it had been improperly installed at the location.

Rebuttal:

Mr. Janzen came forward and answered the queries of the interested parties. As far as the brightness of the proposed sign, this sign would be compliant with the City sign code and has a built in light sensor placed in it. At high noon the sign would run about 100% and during the night the sign would run about 3% or 4% in brightness. This is per City sign code which is also nationwide. For the hardship, the sign is in a residential zone and there are several other churches throughout Tulsa, about seven that have been approved by the Board of Adjustment, that has an EMC center located in a residential zone. Generally, the difficulty of changing the changeable marquees because they can very time consuming and dangerous. The function of a church is to evangelize and these signs are very effective signs for increasing the size of the flock.

Mr. Paulson stated that he can appreciate a church wanting to expand, which this church has done significantly. About 40 years ago the church was about a third of the size it is now and there have been two major expansions through the years. The church now has no where to expand. He could live with a one-way sign that was facing Sheridan only but when he called with questions he was informed that it would be a two-way sign.

Mr. White stated that one of the conditions that the Board imposes is the time that the sign can be on and off. This Board has been ruling that the signs must be turned off at 10:00 P.M. and cannot turned back on before 6:00 A.M. or 7:00 A.M.

Mr. Paulson stated that he plays golf at Battle Creek occasionally and that course has a good view of the city, and one morning he thought there was a fire downtown only to discover it was a digital sign at least ten miles away. That is a concern.

Mr. White asked Mr. Janzen if today's request is for the four lines of script on the sign. Mr. Janzen stated the portion of the sign that has the church name, The Park Plaza Church of Christ, is internally illuminated with fluorescents and is static, and will stay on

overnight. The marquee below will be replaced with the LED and below that is a static aluminum panel sign which is lit by spotlights hanging from the main cabinet.

Comments and Questions:

Mr. White asked Ms. Miller if she had a copy of the conditions signed by the applicant. Ms. Miller stated that she did not have a signed copy. Mr. White asked Ms. Moyer if she had a copy. Ms. Moyer handed an unsigned copy of the conditions to the Board. Mr. Henke asked Mr. Janzen to step forward to read the conditions and sign the form if he agrees to the conditions. Mr. Janzen read them and sign the conditions turning them over to the Board to be placed in the case file. Mr. White requested a copy of the signed conditions be e-mailed to Mr. Shadley and to Mr. Paulson.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Tidwell, White “aye”; no “nays”; no “abstentions”; Van De Wiele absent) to **APPROVE** the request for a Variance to permit a digital sign in a RS-3 District for Park Plaza Church of Christ (Section 402.B.4.A), subject to conceptual plan 6.13. The Board has found that the bulletin board will be a means of communicating with the public for the church activity and can be used as a means of communicating with the neighbors and the public at large. The conditions of operation were signed by the applicant today and will be a permanent part of the file. The hours of operation will be from 7:00 A.M. to 10:00 P.M. The electronic message center will be installed within the existing sign on the church 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:

PRT SE SE BEG 660W SECR SE TH N355 W580.62 NW50.31 SW56.28 SW227.81 S140 E675.90 POB LESS S50 THEREOF FOR ST SEC 27 19 13 4.74ACS,PARK PLAZA FOURTH ADDN, PARK PLAZA FIFTH ADDN, SHERIDAN PLAZA CENTER, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21746—Chia Neng Yang

Action Requested:

Special Exception to permit a manufactured home (Use Unit 9) in an RS-3 District (Section 401); Special Exception to extend the 1 year time limit to 10 years (Section 404.E.1). **LOCATION:** 12932 East Reading Place North **(CD 3)**

Presentation:

Chia Neng Yang, 12932 East Reading Place, Tulsa, OK; no presentation was made but the applicant was available for questions from the Board.

Mr. White asked Mr. Yang about the buildings that are on the property. Mr. Yang stated the house has been removed but the garage and shop are to stay.

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, Tidwell, White “aye”; no “nays”; no “abstentions”; Van De Wiele absent) to **APPROVE** the request for a Special Exception to permit a manufactured home (Use Unit 9) in an RS-3 District (Section 401); Special Exception to extend the 1 year time limit to 10 years (Section 404.E.1), subject to conceptual plan 7.12. 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 3 BLK 2, GARNETT GARDEN ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21747—Gibson Owilli

Action Requested:

Verification of the spacing requirement for an adult entertainment establishment (Bar) (Section 1212a.C.3). **LOCATION:** 9457 East 31st Street South **(CD 5)**

Presentation:

Gibson Owilli, 7466 East 49th Street, Tulsa, OK; stated he would like to open a lounge for entertainment in the area.

Mr. Henke stated the Board had received his survey. There was a letter received from a concerned neighbor and asked Mr. Owilli if he had seen the e-mail and the referenced an existing bar. Mr. Owilli stated that he had not. Mr. Owilli was handed a copy of the e-mail and given time to read it.

Mr. Henke asked Mr. Owilli if the billard hall referenced in the e-mail was outside the spacing perimeter. Ms. Moyer stated there is currently a billiard hall in the development where the bar is proposed to be opened.

Mr. Henke asked Mr. Owilli if he was aware whether the billiard hall served beer or alcohol. Mr. Owilli stated that he was told they do not have a license to do so.

Mr. Henke stated the Board is not here to say this is an acceptable use but only here to verify the spacing verification that has been requested and a survey has been provided for. Any testimony that is heard today would be from someone who has any evidence to support there is something within the 300 foot radius that conflicts with the proposed 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, Tidwell, White “aye”; no “nays”; no “abstentions”; Van De Wiele absent) that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant’s verification of spacing for the proposed adult entertainment establishment subject to the action of the Board being void should another adult entertainment establishment or other conflicting use be established prior to the establishment of this adult entertainment establishment; for the following property:

LT 1 BLK 1, 3100 CENTER ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21748—Ashley Weber

Action Requested:

Variance of the rear yard requirement for RS-2 District from 25 feet to 15 feet 8.5 inches to permit an addition (Section 403, Table 3). **LOCATION:** 2601 South Evanston Avenue East **(CD 4)**

Presentation:

Ashley Weber, 2601 South Evanston Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for questions from the Board.

Mr. Henke stated the Board has received a lot of letters of support for today’s request. The reference to the irregular shape of the lot may not necessarily come into play for the hardship.

Mr. White asked Ms. Weber if the existing building was to be removed. Ms. Weber stated the existing smokehouse is to be razed.

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, Tidwell, White “aye”; no “nays”; no “abstentions”; Van De Wlele absent) to **APPROVE** the request for a **Variance** of the rear yard requirement for RS-2 District from 25 feet to 15 feet 8.5 inches to permit an addition (Section 403, Table 3), subject to conceptual plan 9.7. The Board has found that this an irregular shaped lot and the existing building is an equal distance from the property line in the rear. 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:

TRACT A CRESTWOOD ADD & PRT N/2 NE NW SE BEG 25S NWC N/2 NE NW SE TH E118 S139.6 W93 NWLY CRV LF 105 N38.55 POB SEC 17 19 13 0.339AC, CRESTWOOD ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21749—Roy Johnsen

Action Requested:

Special Exception to allow an Elementary School (Use Unit 5) in an AG District (Section 301, Table 1). **LOCATION:** 12000 East 31st Street **(CD 6)**

Presentation:

Roy Johnsen, 1 West 3rd Street, Suite 1010, Tulsa, OK; stated he is before the Board today representing Union Schools. Mr. Charles Bushyhead, Assistant Superintendent of Support Services is also present today should the Board have questions for him. Mr. Johnsen stated that approximately 100 letters had been sent out advising them of the pending application. There was also a meeting held last Wednesday to meet with the people and about 12 were present at the meeting. There was great support for today’s proposal mainly because it is an improvement for the area. This is an area that is growing and has a very strong demand. The improvement will strengthen the neighborhood and help the neighborhood. Mr. Johnsen presented a new map as an exhibit to the Board which was changed slightly from the map that is in the Board’s agenda packet. The change involves the north boundary and the landscaping has been strengthened on the west boundary. The concept the school is striving for is community services from various entities that contribute to make this a better school, better for parents and children, and better for the neighborhood.

Mr. Tidwell asked what the 68,000 square foot building was displayed on the print titled CAP Building. Mr. Johnsen stated that CAP, Community Action Project, is a non-profit

organization that works with pre-school facilities and they are in various places across Tulsa. It is very important work and they need a place for their offices.

Ms. Snyder asked about the proposed connection to 32nd Place that is displayed on the print presented to the Board. Mr. Johnsen stated the street exists and goes into the school's boundary line, and takes traffic all the way to Garnett Road. One of the things the school is trying to avoid is busing, and this will solve a traffic flow problem. On the east side there is a neighborhood and it will be good for pedestrian traffic.

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, Tidwell, White "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a **Special Exception** to allow an Elementary School (Use Unit 5) in an AG District (Section 301, Table 1), subject to the amended conceptual site plan as submitted today, July 22, 2014. 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:

NE NW LESS BEG SWC NE NW TH N315 SE182.47 SE93.88 SE193.49 W330 POB & LESS BEG 50S NEC NE NW TH S1269.23 W377 N450 E337 N819.25 E40 POB & LESS N50 FOR ST SEC 20 19 14 32.937ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21750—Jared Newcomb

Action Requested:

Variance of side yard setback from 20 feet to 5 feet (Section 403, Table 3).

LOCATION: 1548 East 33rd Street South **(CD 9)**

Presentation:

Jared Newcomb, 309 East Decatur Street, Broken Arrow, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Henke asked Mr. Newcomb if he was the builder. Mr. Newcomb answered affirmatively.

Mr. Henke stated this was a fascinating case to read about, how it looked like everything was in order and then all of a sudden it was not in order because there was a

break down in the communications with the City. Mr. Henke asked Mr. Newcomb to expound on the situation.

Mr. Newcomb stated the old house was purchased with the intention of razing it. A demolition permit was issued by the City. A building permit was also issued by the City. In the process it was discovered that one of the old surveys of the land showed the property to be 360 feet wide and there was an additional five foot utility easement on the west side of the property. He asked the City of clarification of the survey, because the house plans that were drawn would not fit on the lot. The City gave them dimensions for the size of the house that could be built on the lot. The house was reconfigured and taken back to the City Permit office. The permit office approved the new plan and the house was built on the subject location. The house went through inspections, even had the survey pins in place, and were told everything was ok. There was still concern over the discrepancy of the 50 feet versus the 60 feet, so he called back after the inspection and was told again that everything is good. When it came to receive the final certificate of occupancy, the house was done, and the City said there is an issue with property.

Mr. Henke asked if the City basically stated the house would need to be torn down. Mr. Newcomb answered affirmatively and stated that is why he is before the Board today.

Mr. Newcomb stated that all the existing houses on the subject street are in the same line, as was the old house, so it does not appear to be out of sorts by any means. That is why he believes no one noticed the discrepancy until the very end.

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, Tidwell, White “aye”; no “nays”; no “abstentions”; Van De Wiele absent) to **APPROVE** the request for a **Variance** of side yard setback from 20 feet to 5 feet (Section 403, Table 3). The Board has found that the house generally lines up with the other houses along the street, and that the original house was located along the same lines. The Board has also found that circumstances involving the communication in preconstruction added to the situation in the end. This approval is subject to as built. Due to these 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-12-BLK-1, PARRAMORE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21751—Gaurav Kumar

Action Requested:

~~Variance of the allowed front yard coverage in RS-1 District from 1,444 square feet to 2,582 square feet (Section 1303.D);~~ Variance of the allowed structure height in RS-1 District from 35 feet to 40 feet (Section 403, Table 3); Special Exception to allow 6 foot fence height in a required front yard (Section 210.B). **LOCATION:** 2735 East 45th Place South **(CD 9)**

Ms. Moye stated the applicant has withdrawn the Variance request for the allowed front yard coverage from 1,444 square feet to 2,582 square feet, but wants the second Variance and the Special Exception to remain.

Presentation:

Gauvar Kumar, 2210 East 55th Place, Tulsa, OK; presented pictures to the Board. No formal presentation was made but the applicant was available for any questions from the Board.

Mr. Henke stated that what is difficult for him in this case is the height variance. He understands the applicant's comments about the architectural drawings. The Board has actually granted a height variance from 35 feet to about 40 feet near 41st Street, and they were able to justify that approval based on the terrain. This terrain, however, is rather flat but it is a good size lot.

Mr. Kumar stated there are homes in other subdivisions, The Windmoor Subdivision, where the building height is 45 feet. Mr. Henke stated the Windmoor Subdivision has some hills. That topography is dramatic and this is a flat piece of property.

Mr. Henke stated that appears the elements that trigger the requirement for Variance on the height requirement is the lighting rods or decorative elements on the top of the roof.

Mr. Tidwell asked Mr. Kumar if the height of the decorative pieces on the top of the roof were added into the elevation figures. Mr. Henke stated that they are not. Mr. Henke wanted Mr. Kumar to know that the Board studies and makes decisions on a case by case basis, and that precedent has no bearing in the decision. Mr. Henke stated that he has been on the Board of Adjustment for ten years and he does not think the Board has granted very many requests in excess of 35 feet, but when the Board has given approval it has been for a specific reason like the topography. In terms to relevant

history, other houses within a couple of blocks there are not any houses in excess of 35 feet.

Ms. Moyer stated that she did not see any oversized structures within the surrounding area when she did her site visit.

Ms. Miller stated that in midtown there are little pockets of PUD's that have come for new construction, so those PUD's may have exceeded that standard but that would not have come before the Board of Adjustment. But there are not any in this area.

Mr. Henke reminded Mr. Kumar that the hardship cannot be self-imposed or economically driven. To say the architecture is the hardship because you want to maintain the European style and design of the house is not a hardship.

Mr. Kumar asked Mr. Henke if he was suggesting that there were no houses in Tulsa that are 35 feet on a flat terrain. Mr. Henke stated that is not what he is suggesting. What he is suggesting is in the past ten years before the Board of Adjustment he does not recall one that the Board has granted for flat terrain. The Board has about 24 meetings a year and he has attended a lot of those meetings. As Ms. Miller pointed out, they may have come before the TMAPC for a PUD process, and that Board may have granted relief. Mr. Henke stated precedent before the Board of Adjustment, to his knowledge and Mr. Tidwell and Mr. White have been on the Board a long time also, there is nothing in the relevant previous history. Mr. Henke stated that he is attempting to find a way for Mr. Kumar to achieve his goals but so far the Board is struggling with the hardship. So if Mr. Kumar can provide the hardship the Board can very easily grant the Variance request.

Mr. Kumar stated that in the Board's agenda packet there was a statement that the house would hinder the openness. Mr. Kumar handed the Board some pictures to refute this statement.

Mr. Henke asked Mr. Kumar what the square footage of the home is. Mr. Kumar stated the home is 6,900 square feet.

Mr. Kumar stated that only a small portion of the roof is over the required building height. Mr. Kumar stated that the span will add up to the roof pitch and the linear span is 140 feet.

Mr. Henke stated that he thought the house is a beautiful home and will not be detrimental to the neighborhood. It is just needing a valid hardship.

Mr. Kumar stated that the circle drive in the front yard actually pushes the house farther back into the lot, that actually makes the effective elevation is only 33 feet from the curb. These calculations are on the last page of the documents that were presented.

Mr. Henke stated that is perfect. Ms. Snyder concurred.

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, Tidwell, White “aye”; no “nays”; no “abstentions”; Van De Wiele absent) to **APPROVE** the request for a Variance of the allowed structure height in RS-1 District from 35 feet to 40 feet (Section 403, Table 3); Special Exception to allow 6 foot fence height in a required front yard (Section 210.B). The Board has found that the house has moved back on the extra deep lot thereby the visual elevation of the roof is 33’-7”, and with the view it will not infringe upon the openness of the neighborhood. The size of the house impacts the size of the roof. 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. 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:

W1/2 LT 16 BLK 7, VILLA GROVE PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

19866-A—Eller & Detrich – Lou Reynolds

Action Requested:

Modification to a previously approved site plan (BOA-19866) to allow the expansion of the Route 66 Harley Davidson building by 5,850 square feet. **LOCATION:** 3637 South Memorial Drive East **(CD 5)**

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated this request is to amend the site plan that has been approved by Special Exception for a motorcycle use in Use Unit 17 in the DS District. The old Route 66 Diner has been demolished which covered 3,400 square feet and the client would like to add onto the existing building approximately 5,800 square feet. The expansion will be for support merchandise, clothing, etc. A letter was written to the adjacent neighbors and no one was heard from.

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, Tidwell, White "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a **Modification** to a previously approved site plan (BOA-19866) to allow the expansion of the Route 66 Harley Davidson building by 5,850 square feet, subject to conceptual plan 13.18. 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 1-3 BLK 1, LAZY CIRCLE ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 3:04 p.m.

Date approved: 8/12/14

Frank X. Henke, III

Chair