

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1123
Tuesday, August 26, 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 Tidwell, Secretary Van De Wiele White, Vice Chair	Snyder	Miller Moye Foster Sparger	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, August 21, 2014, at 8:22 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

On **MOTION** of **TIDWELL**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the **Minutes** of the July 8, 2014 Board of Adjustment meeting (No. 1120).

On **MOTION** of **TIDWELL**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the **Minutes** of the August 12, 2014 Board of Adjustment meeting (No. 1122).

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

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Variance to allow an expansion of a non-conforming structure (Section 1405.A); Variance to permit a 2-story building in an OL District (Section 603, Table 3); Special Exception to increase the floor area ratio (FAR) from .30 to .35 in an OL District (Section 603, Table 3). This approval is subject to the conceptual site plans 3.18, 3.19, 3.20, 3.21, 3.22 and 3.23. Finding that the building in question is a nonconforming structure that existed as a two-story residence prior to the rezoning of the property as Office Light. The recent fire has necessitated the remodeling and rebuilding of the 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. 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:

**LOT 15 BLK 4, TERRACE DRIVE ADDN SUB PRT B5, TERRACE DRIVE ADDN,
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

21762—Mark Rosenberger

Action Requested:

Variance of the required setback from the centerline of East 31st Street from 100 feet to 50 feet to permit a tent for produce sales (Section 703, Table 2); Special Exception to allow tent sales in a CS District and to extend the time period to 10 years (Section 1202.C.1). **LOCATION: 6390 East 31st Street (CD 5)**

Presentation:

Mark Rosenberger, 20902 South Mingo Road, Bixby, OK; stated he has been at the subject location for approximately 20 years, and now he needs to extend the time for his tent sales. Mr. Rosenberger stated that in the past he has had 178 days per year to be able to sell from his location and would like to have that same day span applied to this application.

Mr. White asked Mr. Swiney if the 178 days was implied even though it is not mentioned in the application. Mr. Swiney stated that the 178 days is in the code and it would be implied.

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, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Variance of the required setback from the centerline of East 31st Street from 100 feet to 50 feet to permit a tent for produce sales (Section 703, Table 2); Special Exception to allow tent sales in a CS District and to extend the time period to 10 years (Section 1202.C.1), subject to conceptual site plan 4.12 and a time limit of ten years. The Board has found that this is for temporary sales with a maximum of 178 days per year. The location of the tent does not hinder the parking lot drive aisle or the circulation through the parking lot. 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. 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:

PT EA LOTS 2 & 3 BG 50' W MOST NLY NE COR LT 2 DUE S 405' TO PT 25' S N L LOT 3 W 300' N 405' E 300' POB BLK 1, SHERIDAN CIRCLE RESUB PRT B1 & B7 LORRAINE HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21763—Jeremy Taylor

Action Requested:

Variance to allow outdoor display of merchandise for sale within 300 feet of an adjoining R District for automobile sales (Section 1217.C.2). **LOCATION:** 439 South Sheridan Road **(CD 3)**

Presentation:

Jeremy Taylor, 439 South Sheridan Road, Tulsa, OK; stated he was before the Board last month for the used car lot for his establishment at the subject property. At that meeting there was one protestor who did not want him to display his merchandise. When he went to the Used Motor Commission he discovered that he cannot receive a dealer’s license without being able to display vehicles. He submitted a site plan for his current parking lot and on that he designated an area where he would like to be able to display his merchandise for the used car lot. He currently has a body shop at the rear of the location and will have an office there for the auto sales. His plan is to purchase rental cars, run them through the body shop, and then sell them at a wholesale auction. If he does not sell the auto at the auction he asked that he be allowed to display a vehicle on the front of the subject property which is required by the State of Oklahoma

to have a dealer's license. Mr. Taylor stated that he had spoke with the protestor from the last meeting about his facility and she came to see his facility. She was confused about his request because she thought there was going to be a big sign. After discussion she is comfortable with his request.

Mr. White asked Mr. Taylor about the past meeting's discussion about the cars he had being sent to the auto auction and not having them on display. Mr. Taylor stated that is a correct statement. Mr. White asked him if he was changing his business plan. Mr. Taylor stated that he cannot be issued a dealer's license without being able to display the product. He must have a display space so he alloted one space on the parking lot as a place to display a vehicle. He did not intend to display any vehicle because it is not beneficial to him to become a car lot. It is more beneficial to him to run the auto through his business and wholesale it. The auto sales will help take the lows out of his body shop business.

Mr. White asked Mr. Taylor about the quantity of vehicles he would have on display. Mr. Taylor stated that he only needs one car on display. According to the State of Oklahoma the zoning permit needs to state "for used car sales". The State does not care how many spaces he has on his property. All the State needs to know is that he is allowed and can display vehicles.

Mr. Tidwell asked if he would need to have a sign. Mr. Taylor stated that he would need a sign, but he has a concrete wall on his property and he plans to stencil the wall with his sign. The concrete wall is below the existing sign advertising his body shop and the concrete wall is visible from the street. Mr. Tidwell asked where the sign would be located. Mr. Taylor stated that it will be on the south side near the entrance to the subject property. Mr. Tidwell asked if the sign would be on the same post as his existing sign. Mr. Taylor stated that it would not.

Mr. White asked Mr. Taylor if he would have a problem with the Board limiting the approval, if it is so inclined, to only one vehicle for display. Mr. Taylor stated that he would be agreeable to that condition.

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, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the request for a Variance to allow outdoor display of merchandise for sale within 300 feet of an adjoining R District for automobile sales (Section 1217.C.2), subject to conceptual plan 5.15 which shows one space in the parking lot, and only one outdoor display space, that will be allegated for the used car sales. The hardship is that the State of Oklahoma

requires the applicant to have a zoning clearance to receive his necessary dealer's license in order to conduct business that had been approved at a previous Board of Adjustment hearing. 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:

LTS 16 & 17 BLK G, CREST VIEW ESTATES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21764—Francisco Anaya

Action Requested:

Appeal the decision of an Administrative Official that the bakery is a Use Unit 23 in a CS District. **LOCATION:** 212 South Garnett Road **(CD 3)**

Presentation:

Ed Sharrer, Kendall Whittier Main Street, 2308 East Admiral Boulevard, Tulsa, OK; stated he is representing the Anaya family in this matter. This is a fifth generation family bakery. The Anaya family purchased the subject property because they do not have the necessary room to operate their retail bakery where it is currently located. He feels that the Zoning Code did not provide the official with the clarity and flexibility to make a ruling appropriate for this business. The Zoning Code did not anticipate a bakery such as the Anaya family bakery. The Zoning Code pertains to bakeries the size of Ann's Bakery or the size of Wonder Bread. So it is understood the code official hesitance to approve this request. The subject building sits in the middle of a large parking lot and there is 100 feet between the south edge of the building and the neighborhood. Mr. Sharrer hoped the Board had received a letter from Mr. Wayne Bohannon, President of the Wagon Wheel Neighborhood Association, because it shows the neighborhood support of this request.

Mr. Henke stated that the Board had not seen the letter.

Mr. Sharrer stated that the neighborhood association president had not problem with this request, and in fact, was looking forward to the bakery. There is not a lot of business or investment in this area and the neighborhood association thought this bakery would be a great benefit to the neighborhood.

Mr. Sharrer stated that the Anaya's bake fresh bread daily. In this culture bread is very important. Usually a family member will come to the bakery in the evening to purchase bags of fresh bread, sweet bread or pastry for dessert or breakfast the next morning. In this case, the Anaya family would like to add a retail area which they do not have at

their current location even though they do have a very small walk-up window. They would like to have an area when a client could come in, sit down with a cup of coffee and a pastry. Currently the Anaya family does not have any offices so they propose to have offices. This is exact building and exact size, if it were a Reasor's it would allowed by right. Reasor's have bakeries for bread and baked goods on site, they have storage in the rear of the store, they have offices, and they have deliveries. In this case the Anaya family will be baking bread, selling it in the front of the building, have some offices and some storage in the rear. They have a total of three 18-wheeler trucks a week making deliveries. There are no assembly lines or conveyor belts. There are only stainless steel baking tables for employees to prep. There are Hobart mixers about the size of a kitchen stove for bath mixing. At the present time, the bakery uses eight mixers, eight work tables and three double-rack ovens at the 40 South Garnett Road location. They are proposing ten mixers, eleven work tables, four double-rack ovens for the new location. There was a question on the word wholesale and what they do. This is not an operation where they bake a lot of bread and shipping it out on several trucks. Their wholesale operation is at restaurants. The restaurants come to their store and make their purchases at the store's counter like an individual customer. The restaurants do pay a lower rate. The Anaya family has one delivery truck because they do make a few deliveries. This is a bakery that is similar to Ann's Bakery. If Ann's Bakery had three or four locations and they decided to have one place with offices with a little extra storage and an extra mixer or oven. The code did not anticipate a retail bakery of this scale. He would respectfully request the Board overturn the code official's ruling, because the code did not give the official the flexibility to make a determination of what is really happening on the subject site.

Mr. Van De Wiele asked Mr. Sharrer how much, in percentages, walk-up traffic there is and how much wholesale traffic there is. Mr. Sharrer stated the trade is approximately 80% family and 20% for restaurants.

Mr. Van De Wiele asked Mr. Sharrer about the lower price paid by the restaurants, is it a discount, or is it a sale for resale and they are not paying sales tax? Mr. Sharrer stated that it is his understanding it is not a sale for resale, but the Anayas are providing breads to restaurants for the restaurant patrons, so it would be like a volume discount.

Mr. Tidwell asked if the Anaya Bakery is moving out of the current location. Mr. Sharrer answered affirmatively.

Mr. White asked staff if the Board was being asked to make an interpretation on the Use Unit 23 and if it should be applied. Mr. Swiney stated that the Board is being requested to make a finding that the Use is not in fact a warehouse or wholesale, but rather it is a rather large retail establishment. Mr. Swiney stated that wholesale and warehouse is not defined in the City Code, therefore, the definition is the ordinary definition that everyone would understand what wholesale or warehouse to be.

Mr. Van De Wiele asked if the sale to the restarantuers is the potential wholesale. Mr. Swiney answered affirmatively. Mr. Sharrer stated that wholesale to him is the

manufacture of a lot of product that is stored on a shelf or large racks. Everything the Anayas prepare is fresh and goes out daily.

Mr. White asked Mr. Sharrer if at their present location they are under Use Unit 13 and Use Unit 23 was never applied. Mr. Sharrer answered affirmatively. Mr. Sharrer stated the Anayas are not going to do anything different at the new location except allowing the walk-up customers to sit down and they will have offices.

Interested Parties:

Chuck Lange, Zoning Plans Examiner, City of Tulsa, 175 East 2nd Street, Tulsa, OK; stated the Anayas currently have two bakeries that are on file as permitted. The main difference between the Garnett and the East Admiral Place as opposed to the new facility is the scale. The one on Garnett has approximately 4,700 square feet of production area, and the one on Admiral Place has approximately 1,800 square feet of production area. The new facility has over 10,000 square feet of production and storage area which is not on the scale of Wonder Bread but is larger than a normal bakery classified Use Unit 13, that is why Use Unit 23 was applied. Also, on the application it was stated retail and wholesale, and they do deliver to their other bakeries and some restaurants so the City consider that wholesale. The City does not have any objections to anyone expanding their business but that is the rationale the City used for designating the Use Unit 23.

Rebuttal:

Mr. Sharrer came forward and reiterated that he understands why Mr. Lange made the decision he did, because of having no other choice. Nothing in the code analyzes and states that if a building is over 8,000, 10,000, or 30,000 square feet then it is automatically a wholesaler even if the sales are retail. He does not feel that Mr. Lange was given the tools he needed to actually apply a decision that fits with what is going to be happening within the building.

Mr. Swiney stated that Mr. Lange stated the application said retail and wholesale and wanted to know if that was correct. Mr. Sharrer stated that it is his understanding that the word was applied innocently to describe what is sales to the trade at a volume discount. It is not wholesale in the traditional sense that they are a big distribution center where product is being baked, stored and then shipped. The bakery offers discounts to restaurants and the trade.

Mr. Swiney asked Mr. Sharrer how he would define wholesale. Mr. Sharrer stated that it would include the manufacture of product that would be packaged, stored in bulk and shipped in bulk to retailers, such as selling their product to Reasors. That is distribution. The Anayas are not selling their breads to the public anywhere else except at their own stores.

Ms. Miller stated that there is a new zoning code being worked on, and the trend that is being seen now and accommodating are these small businesses that grow to this new level, such the chocolatier recently and the micro-breweries that have come before the

Planning Commission. The current code only recognizes the large scale of these types of businesses and not the medium scale local business. This is something that is being looked at and is being addressed, but there is definitely a gap in the current code.

Mr. Van De Wiele asked Ms. Miller what the current thought is for addressing this type of situation. Ms. Miller stated that all the businesses are a little different, but in the case of a micro-brewery it is seen as a manufacturer. Right now the Planning Commission and the Board needs to be a little creative to accommodate these businesses in the trend that is emerging across the nation.

Mr. White asked if, under the current code, the Board denied the appeal what would be the options for the applicant? Ms. Miller stated the applicant would need to rezone the property to the zoning district that would allow Use Unit 23. Mr. Sharrer stated that would require a lengthy and expensive PUD process and the Anayas would like to forego that process.

Mr. Swiney asked if he was correct in understanding the bakery, other than selling retail to the end user, the bakery sells only to restaurants, and they do not sell to any other retailer. Mr. Sharrer answered affirmatively.

Comments and Questions:

Mr. Van De Wiele stated that the selling of the bakery product to restaurants seems to fall into a gray area. The fact that the Anayas are doing this same business under the Use Unit 13 at the other locations tends to make him think this is a situation the Board should allow.

Mr. Tidwell agreed that the bakery is not a wholesale business and is a retail business by selling to a restaurant for table consumption at a restaurant.

Mr. White stated that he would like to see the bakery in the new location and would be great if they did not have to go before the Planning Commission for rezoning, and Ms. Miller did say there will be something coming forth that will address this problem. Mr. White stated that he understands the City's position in this case because there is not a clear definition in the code. Mr. White also stated that he is inclined to go with the new definition, and he thinks the bakery really needs to be in the area.

Mr. Swiney stated that the application implies wholesale but apparently that was entered in error.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **REVERSE** the determination of the City Administration Official that the bakery in question is a Use Unit 23 wholesale bakery in a CS District and the **GRANT** the applicant's appeal in the matter. The Board has found that the business operations of the bakery in question are predominantly walk-up retail driven with additional retail on a volume discount basis to

local restaurants for use and consumption in those restaurants; for the following property:

S253.84 E515 N/2 SE NE LESS E50 THEREOF FOR ST SEC 6 19 14 2.71ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21765—Tim Terral

Action Requested:

Variance to reduce the minimum lot width from 100 feet to 85 feet; Variance to reduce the front yard setback from 35 feet to 25 feet (Section 403.A). **LOCATION:** 4444 South Gary Avenue (CD 9)

Presentation:

Tim Terral, Tulsa Engineering and Planning Associates, 9820 East 41st Street, Suite #102, Tulsa, OK; stated the subject site has a significant amount of flood plain on the western part. There a large storm sewer easement and a sanitary sewer easement on the back half. Ultimately there will be a lot split on the subject property. If the site is split down the middle it will be a couple of feet shy of the minimum lot width. There are a number of lots in the area that are less than 100 feet in lot width. There is a precedent across the street at 4455 South Gary, BOA-19467, which was heard in 2002. At that time the lot width was reduced to 78 feet. The request for the reduction of the setback is because of the same issues of the flood plain. The lots in the surrounding area vary in how far back they sit off the road. There are some that are 25, 30, 35 feet and some more than that. Mr. Terral stated that he has received calls from some interested parties and he has spoke with them and they seem comfortable with the proposal. The house was demolished because it was not in good shape. With a lot split there can be two new homes in turn increasing the value of the subject lot.

Mr. Van De Wiele asked Mr. Terral about the setbacks for the couple of houses to the north and the couple of houses to the south. Mr. Terral stated the setbacks for those houses are 25 feet and 35 feet. Mr. Terral pointed out several houses with varying setbacks from the aerial map displayed on the overhead projector.

Mr. Van De Wiele asked Mr. Terral about the 85 foot lot width. Mr. Terral stated the 85 feet lot width is an average width. If it were not for the flood plain the lot width would possible average 98 feet. Mr. Van De Wiele and Mr. Terral discussed the lot widths of several houses in the area that are on the aerial map displayed on the overhead projector.

Interested Parties:

Mark Capron, 4445 South Gary Avenue, Tulsa, OK; stated he lives across the street and down a couple of houses. His house is the case that was granted the same exception in 2002. There were serious criminal issues with the subject house before it was razed so he is looking forward to the possibility of developing the subject lot. The

subdivision was platted before the war, World War II, and there are a lot of inconsistencies throughout the neighborhood. The area was subdivided into one acre lots with small homes, and the platted lot lines from the 1930s or 1940s are lot different than they are now because the area has been diced up. He thinks that is something that should be taken under consideration. The neighbors have been concerned over how the lot was divided and that it may never be developed, so today's proposal would seem beneficial. In regards to the setback, because of the flood plain, the request makes sense to him and he does not have a problem with the front setback. Mr. Capron stated he is here representing himself as the homeowner and not as a representative of his company.

Mark Castell, 4462 South Gary Avenue, Tulsa, OK; stated the lot he resides on is also partially in the flood plain. His primary concern is that similar action was taken in the neighborhood sometime in the last year, and it looks to him as if it would very difficult to place a second home on the adjacent lot. He is concerned about the proximity to the street because his home and several others have a larger setback. He is concerned about the lots that have been split and whether or not the lots are being divided up into too small fashion.

Mr. Henke stated the neighborhood is zoned RS-1, not RE. The neighbors could get together and have the neighborhood rezoned if they would like to do that.

Rebuttal:

Mr. Terral came forward and stated that if the 35 feet is too tight could a compromise be met at 30 feet? He would be willing to meet the 30 foot setback.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the request for a Variance to reduce the minimum lot width from 100 feet to 85 feet; Variance to reduce the front yard setback from 35 feet to 30 feet (Section 403.A), subject to conceptual site plan 7.11 with the exception that the 25 foot building line is only approved at a 30 foot setback. The Board has found that the property in question made up of these three lots, as shown in the Board's agenda packet, have a unique shape, and certainly a significant change in the terrain. The lots are significantly covered by both flood plain issues as well as various storm sewer easements impacting the buildable area on the lot or the resulting lots. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

PRT LTS 1 & 2 BEG SECR LT 2 TH NW101.95 N201.67 E152 SW223.66 POB LESS S30 THEREOF BLK 5, VILLA GROVE PARK; PT LTS 1 & 2 BEG. 104. 65 E. OF SWC LT 2 N 185 17 E 149 PARL TO N. L. LT 1 S 203.77 WLY 149 TO BG LESS S 20 ST BLK 5; PT LTS 2 BG SWC TH N172 1 E104 65 PARL TO N. L. LT 1 S185 17 WLY TO BEG PLUS R OF W ON S TO GART AV BLK 5, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21766—Wallace Engineering – Jim Beach

Action Requested:

Variance to reduce the lot width from 60 feet to 56 feet in an RS-3 District; Variance to reduce the required setback from an Urban Arterial from 85 feet to 60 feet from the centerline (Section 403, Table 3). **LOCATION:** 2407 East 20th Street (**CD 4**)

Presentation:

Jim Beach, Wallace Engineering, 200 East Brady Street, Tulsa, OK; before starting his presentation Mr. Beach pointed out to the Board that under “Staff Comments” in the second paragraph it states the client wants to build two new residential units on each of the two lots that are trying to be created, and there will only be two units total or one for each lot. In regards to the lot width Variance, the subdivision of this property on the east side of Lewis, virtually every lot in the area is the same size and shape. All the lots are 56 feet wide. The two lots that are before the Board today are 47 feet and 65 feet currently containing one residence. He does not know how this came about but they were originally platted at 56 feet, so this would restore them back to the 56 feet. His client’s goal is to raze the existing single family home and build two houses, one on each lot. In regards to the second Variance request, Lewis Avenue is designated an urban arterial with a minimum right-of-way of 70 feet. Currently the east half of Lewis is 50 feet as if it were a secondary arterial. The right-of-way is already wider than normal which is partially squeezing the subject lots down. By allowing the setback at 60 feet it would allow a little more room to utilize the full 56 foot width. Mr. Beach stated that he had taken Google map measurements on a house to the north of the subject lot and there is a garage on that house that is approximately two feet into the existing right-of-way. A house to the south of the subject lot is even closer to Lewis than the house to the north of the subject lot.

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, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a

Variance to reduce the lot width from 60 feet to 56 feet in an RS-3 District; Variance to reduce the required setback from an Urban Arterial from 85 feet to 60 feet from the centerline (Section 403, Table 3). Finding that the lot widths in this particular subdivision normally have been in the 56 foot range and for an unknown reason the two lots involved in this case have an unequal split of 47 and 65 feet. Today's approval is an attempt to get the subject lots in keeping with the other lot widths within the area. In regards to the setback, the 60 foot setback would not put the buildings any closer than properties to the south and to the north of the subject lot. 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 6 & LT 7 BLK 1, BARNARD ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

* * * * *

OTHER BUSINESS

21741—Eller & Detrich – Lou Reynolds

Request to acknowledge the Tie Agreement for the West Tulsa Free Will Baptist Church as part of the official record. **LOCATION:** South of the SW/c of South Maybelle Avenue and West 23rd Street (CD 2)

This case, BOA-21741, was originally heard and approved July 8, 2014.

Presentation:

Kara Moore, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; no formal presentation was made but the applicant's representative was available for any questions.

Mr. White asked staff if the Board had been presented with this at the original hearing of the case in July. Ms. Miller stated the concept was presented but the actual Tie Agreement was not. Ms. Moore stated the Tie Agreement has been submitted to the City Attorney and approved.

Mr. Swiney stated that his colleague, Ms. Janine VanValkenburgh, reviewed the Tie Agreement and she advised him that it is good to go. In the previous case the Board approved the concept but the final document had not been prepared, and that is what is before the Board today.

Andrew Shank, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated there was a previously approved Tie Agreement in the lineage of this case as well. This is an amendment of an existing agreement based on the last case. The formal document is being submitted for the first time today.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** and **ACKNOWLEDGE** the Tie Agreement for the West Tulsa Free Will Baptist Church as part of the official record as submitted today with the understanding that the applicant will submit fully executed and recorded copy to INCOG when executed and recorded; for the following property:

LTS 1-9 & E15' LT 10 & LTS 11-18 BLK 42 & LTS 15-18 BLK 41 WEST TULSA ADDN; & LTS 1-3 & 5 & 6 BLK 2 & LT 6 BLK 1, WEST DALE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 2:32 p.m.

Date approved: 9/9/14

Frank X. Hank, Jr.

Chair