

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1132
Tuesday, January 27, 2015, 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 Van De Wiele White, Vice Chair	Tidwell, Secretary	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, January 22, 2015, at 8:16 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 **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the **Minutes** of the January 13, 2015 Board of Adjustment meeting (No. 1131).

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.

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UNFINISHED BUSINESS

21811—A-MAX Sign Company – Lori Worthington

Action Requested:

Variance to allow more than one sign per street frontage in the OL District (Section 602.B.4.b); Variance of the maximum display surface area in the OL District from 32 square feet to 77.25 square feet (Section 602.B.4.c). **LOCATION:** 4408 South Harvard Avenue **(CD 9)**

Presentation:

Staff is requesting a continuance to February 24, 2015 for this case to allow them to amend the staff report to reflect changes made to the application.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **CONTINUE** the request for a Variance to allow more than one sign per street frontage in the OL District (Section 602.B.4.b); Variance of the maximum display surface area in the OL District from 32 square feet to 77.25 square feet (Section 602.B.4.c) to the Board of Adjustment meeting on February 24, 2015; for the following property:

E.180 OF LT 1 BLK 2, VILLA GROVE PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21822—One Property – Chase Robertson

Action Requested:

Variance of the allowed square footage for an accessory building in the RS-3 District from 500 square feet to 2,838 square feet (Section 402.B.1.d); Variance to allow an accessory building height greater than 10 feet to the top of the top plate (Section 210.B.5.a). **LOCATION:** 1728 West 81st Street South **(CD 2)**

Presentation:

The applicant is requesting a continuance to February 10, 2015 meeting to allow time for him to collect additional information pertaining to the case.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **CONTINUE** the request for a **Variance** of the allowed square footage for an accessory building in the RS-3 District from 500 square feet to 2,838 square feet (Section 402.B.1.d); **Variance** to allow an accessory building height greater than 10 feet to the top of the top plate (Section 210.B.5.a) to the Board of Adjustment meeting on February 10, 2015; for the following property:

PRT LT 2 BEG 20S NEC TH W90.31 S281.66 E90.27 N281.66 POB, ROSS HOMESITE SUB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

21828—Branch Communications – Kayla Kramer

Action Requested:

Variance of the setback of 100 feet to 55 feet from the centerline of East 11th Street to permit a cell tower (Section 703, Table 2). **LOCATION:** 9316 East 11th Street **(CD 5)**

Presentation:

Staff is requesting a continuance to February 24, 2015 because after studying the case it was discovered the applicant needs additional relief.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **CONTINUE** the request for a **Variance** of the setback of 100 feet to 55 feet from the centerline of East 11th Street to permit a cell tower (Section 703, Table 2) to the Board of Adjustment meeting on February 24, 2015; for the following property:

A part of the Northeast Quarter of the Northeast Quarter (NE/4 NE/4) of Section Twelve (12), Township Nineteen (19) North, Range Thirteen (13) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, being more particularly described as follows, to-wit: BEGINNING at a point 50 feet South and 165 feet East of the Northwest corner of the NE/4 NE/4 of said Section 12; thence South 280 feet; thence East 165 feet; thence North 280 feet; thence West 165 feet to Point of Beginning. LESS AND EXCEPT a tract of land lying in the NE/4 of Section 12, T-19-N, R-13-E, Tulsa County, Oklahoma, being more particularly described as follows, to-wit: BEGINNING 330 feet South and 220 feet East of the Northwest corner of the NE/4 NE/4 of said Section 12; thence N 12°42'25" E 271.61 feet; thence S 89°57'20" E 50 feet; thence S 0°03'20" E 265 feet; thence S 89°57'20" W 110 feet to the Point of Beginning. 517AC, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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UNFINISHED BUSINESS

21816—James Rusher

Action Requested:

Special Exception to allow an administrative office (Use Unit 11) as a home occupation in the RS-3 District (Section 402.6.b). **LOCATION:** 5343 East 44th Street **(CD 5)**

Presentation:

James Rusher, Attorney, 15 West 6th Street, Suite 2600, Tulsa, OK; stated he is the attorney for the owner, Patrick Moore. Mr. Moore purchased the house for investment purposes by making repairs and getting the house into a saleable condition. The house is currently under the remodel process. The potential inhabitant is an employee of a business in which Mr. Moore has an interest. Mr. Moore is part owner of a corporation that owns the local Jiffy Lube franchise. Mr. Moore has an employee who handles the paperwork, i.e., payroll, office paperwork, etc. There is no office space in the Jiffy Lube stores. This employee is currently living with a family member but she would move into the house and use one of the bedrooms as an administrative office. One bedroom, approximately 170 square feet, would be utilized as the office space. In addition, there would be records stored in the garage along one wall. This employee would be the only

inhabitant of the house and the only worker at the house. There will be no signage. There will be no equipment. The house is a house and will remain looking like a house. The subject house is in a neighborhood behind Promenade Mall and faces the expressway. There will be no customers coming to or leaving from the house. Mr. Moore may stop on occasion to speak with the employee. Jiffy Lube holds monthly managers meetings and they would like to have the tenant/employee host the managers meetings in the house. This would be the only time there would be cars at the house besides the tenant.

Mr. Van De Wiele asked Mr. Rusher what activities were going on at the house currently. Mr. Rusher stated the house is being remodeled with work still be performed. Mr. Van De Wiele asked Mr. Rusher who owned the black and tan pickup truck that is shown in the picture on 3.16. Mr. Rusher stated that it is owned by the son of the owner. Mr. Van De Wiele asked if he was the one doing the remodeling. Mr. Rusher stated that he had stopped to check on the progress of the remodeling. Mr. Van De Wiele stated that he drove by the subject property on Friday and that same pickup was in the driveway then.

Greg Moore, 9156 East 120th Street South, Bixby, OK; stated he is the owner of the black and tan pickup. He is the person who organizes the work being performed at the house. Mr. Van De Wiele asked if all the cars seen in the photos are contractors. Mr. Moore stated the BMW is owned by his father, the owner of the subject property, and he does not know about the other cars. Mr. Greg Moore stated that it is not common for all those cars to be at the house. Mr. Van De Wiele stated that he drove by the house on Friday afternoon and the black and tan pickup was there plus two other cars in the driveway and a Jeep in the garage.

Mr. Henke asked Mr. Greg Moore when he anticipated the end of the renovations. Mr. Moore stated that most of the renovation is exterior now and it would be in the next 30 days. It is really only one person performing the work so it is taking a little longer.

Mr. Van De Wiele asked how often he, his father or other business people would be stopping by the house. Mr. Greg Moore stated that it may be once a week depending on what is happening.

Patrick Moore, 11467 South Harvard Avenue, Tulsa, OK; stated he is the owner of the subject house. Mr. Patrick Moore stated that the picture displayed was taken on a Friday and Friday is payroll day. On Friday, every other week, he goes to the house and sort the payroll with the employee to make sure it is all correct. Occasionally this process will be done on a Thursday afternoon depending on the schedule. He also picks up paperwork on every Monday the future tenant of the house will sort out. Occasionally this process will be done on Tuesday depending on his Monday schedule.

Mr. Van De Wiele asked Mr. Patrick Moore what happens if the future tenant ceases being an employee of Jiffy Lube, will this office then be shut down? Mr. Patrick Moore stated that it would be difficult but at that point it would probably be shut down. Mr.

Patrick Moore stated this arrangement is a big improvement for her, and he may have her stay in the house but this is all "what if".

Mr. White asked Mr. Patrick Moore how many Jiffy Lubes he owned that will have paperwork coming to the subject house. Mr. Moore stated he owned 14. Mr. White asked Mr. Patrick Moore if he had an office. Mr. Moore stated he has a home office.

Mr. Henke asked Mr. Patrick Moore if he had any commercial space for an office. Mr. Moore stated that he did not. The Jiffy Lube businesses are self contained except for a collection area for paperwork that is completed weekly.

Mr. James Rusher stated that what has been done in the past is the meetings are held in one of the stores, and the tenant comes to these meetings because she has administrative duties; they would like to hold the meetings in the house because there is more space. But if that is a problem the applicant will not do that.

Mr. Patrick Moore stated that the stores collect and keep certain paperwork that is required by the government at the stores. But there is certain administrative paperwork that the employee collects and processes that paperwork. There is also billing for fleet accounts and it is then forwarded to an office that he has in Salt Lake City because he has other stores in other states. The payroll is cut at the Utah location and sent to the employee for sorting and distribution to the correct stores.

Mr. White asked Mr. Patrick Moore if the employee would be receiving paperwork from the other states. Mr. Patrick Moore stated that she will not be receiving anything from the other states other than payroll. There is also a program with the Department of Corrections where the employee sorts those checks for distribution to specific stores. Mr. Greg Moore stated that the Department of Corrections employees do not come to the house to pick up their checks, because Mr. Patrick Moore picks those up for delivery to the specific stores. There will not be a drove of employees coming to the house from nine Jiffy Lubes to pick up payroll checks every other week. Mr. Patrick Moore stated there would be no employees coming to the house other than Mr. Greg Moore who functions as a General Manager for the stores.

Mr. White asked Mr. Patrick Moore if the house acted as a home office for the Utah stores or the other stores as it does for the Tulsa stores. Mr. Moore stated there is an office in Utah. Mr. White asked if it was a separate commercial office. Mr. Moore answered affirmatively. Mr. Moore stated that his home office is for any and all of his personal business with his computer base being there.

Mr. White asked about equipment, supplies and materials storage for the stores. Mr. Rusher stated that only paperwork and other items pertaining to the administrative side of the business.

Interested Parties:

Brenda Jamison, 5345 East 49th Street, Tulsa, OK; stated she lives next door to the subject house. On July 30, 2014 she and her husband learned that the subject house had been sold to Jiffy Lube and the plan was to use the house as a business office. She contacted the Mayor's Action Line on August 1st and she spoke with Randy. She was told there would be a report filed and she would be called back in about three months. Randy also suggested that she call INCOG to obtain further information and did so. At that time she was told a contract had been signed on July 1st but would not be finalized for 45 days. She lodged a complaint with INCOG. On August 4th she spoke with the realtor about the house, and he admitted he had sold the house but had no idea that it had been sold to a business. An employee of Jiffy Lube made contact with her husband on August 5th, a full month after the contract had been signed. He told her husband that Jiffy Lube would be a good neighbor and her husband reminded him that the housing addition is zoned RS-3, residential only. The employee then stated that all the neighbors had been contacted prior to the signing of the contract and there were no objections to the presence of Jiffy Lube in the neighborhood. She personally contacted nine home owners in the area, and with the exception of one neighbor on the south side of the subject property, none of the neighbors had been contacted by any Jiffy Lube personnel. She was informed that individuals would be living in the house from time to time. She has never seen a vehicle parked in the driveway after 10:00 P.M. or before 7:00 A.M. The garage is used for storage so no vehicles can be parked inside. She called Councilor Karen Gilbert on August 11th to ask her advice, and she asked to be called once business had started at the subject property address. Mail was delivered to Jiffy Lube as early as September 11th. She then contacted Karen Gilbert and she stated that she would contact the Code Enforcement Inspector and call me back. On December 30th she received notice of this hearing. The neighborhood association met on January 6th to discuss this matter, and the owner of Jiffy Lube was also present. The owner presented a new plan in order to meet code requirements. The owner now states he will rent the house to an employee who will live at the house full time. The owner spoke of his role as a good neighbor, and in fact, he will not be a neighbor. The only time he will be at the subject property is when the company has bi-monthly meetings and on Fridays for payroll processing. The owner's bottom line statement was that he would not stay where he was not wanted. The owner also stated that a vehicle with the company logo would not be parked at the residence. On Saturday, January 17th, a van bearing the Jiffy Lube logo was parked in the driveway, and it remained there all morning. She and her husband purchased their home in 1968 and have seen many changes in the neighborhood. The Max Campbell V addition was not zoned for commercial use and home owners object to the presence of a business in the neighborhood. The residents of the Max Campbell V addition would like to preserve the intergrity of the RS-3 neighborhood.

James W. Jamison, 5325 East 44th Street, Tulsa, OK; stated this is an artificial person because it is a corporation. His concern is that it will set a precedence if it is approved and he does not want that to happen.

Sue Follis, 4253 South Darlington Place, Tulsa, OK; stated her backyard shares a fence with the subject property. She purchased her house in 1999 not knowing what would be happening to the neighborhood. Since the changes the neighborhood has remained intact without much traffic. She presented pictures of the subject property showing various cars in front of the subject house. She stated that she has seen a boat in the backyard and it is not parked on a pad.

Mr. Van De Wiele asked Ms. Follis if the boat were still in the yard. Ms. Follis stated it was still there a couple of weeks ago.

Ms. Follis stated that if an exception is made to allow a business to move into the neighborhood then one at a time all the houses will be taken over, because the neighborhood is so close to other businesses. She works from her home, 8 to 5, for a native american tribe in the child support department and the work is done totally from the internet. She has had one visit from a computer person and one person delivered her a file cabinet. She also keeps the books for a builder in Tulsa, and one person has dropped off paperwork for her. If there is something that she needs it is e-mailed to her or she goes to the office to pick it up. If this person wanted to do business they could pick up the paperwork. There are about 15 retail places across the street in the shopping by Best Buy, if they want to operate in this neighborhood there are plenty of open commercial properties.

Kelley Emigh, 4248 South Darlington Place, Tulsa, OK; stated this is not personal but it is a fact that the area is residential and commercial businesses are not wanted. Laws are created to protect and enhance the rights of people by the people. The residential and commercial zones have been created to protect the citizens, properties, and the right to privacy while keeping residential homes neighborhood friendly for all, especially the children playing in the streets. The zones are created with different tax structures as what is deemed fair to the general public. This home owner purchased the subject house for commercial reasoning, not to live in. A person does not necessarily buy a house for their secretary to live in. She has lived in her house for 22 years and she thinks it is a luxurious home, and it is precious to her. The applicant may deem that it is not a south Tulsa house but the neighborhood does a lot of work to their houses and they are important to all of the residents. The subject house had been operating as a home and it was not dilapidated as stated. The applicant has stated that there are only contractors in this area, but she goes to work every day, come home for lunch every day and returns at 4:30 P.M. every day. Every single day, Monday through Friday, she sees cars lined up in the driveway; it is not just contractors. There is a difference between contractor's cars and trucks being there versus other cars, and she has seen the Jiffy Lube vehicle. Does the applicant want this type of traffic in his nice south Tulsa neighborhood? Why does it have to be in her neighborhood? Because he deems the neighborhood not to be as luxurious? Because there are less taxes to be paid. In her opinion zoning is created for residential and commercial uses with different taxations. Why does a person need to buy a house to run a business? Why can't the applicant rent a commercial space when there are plenty around. It seems to be apparent to most people, he is trying to pay less taxes. She does not want her neighborhood

devalued by the traffic and there is a lot of traffic from the subject house. She believes there is business being conducted out of the subject house currently because you could tell in the beginning when there were contractors there. Now there are people coming and going doing business, and you can tell on Friday when the employees come to pick up their paychecks because the cars are lined up. There is one image being presented to the Board, that a small business run from the house, but it is a commercial business. Does squatters rights allow him to get into the neighborhood? Is that how the devaluation of a neighborhood is started, just move a business in and take over then ask permission? She was never contacted and she has asked all the neighbors around her about being contacted and they all said no.

Rebuttal:

Mr. James Rusher came forward and stated that Mr. Moore purchased the house. The interest in Jiffy Lube is owned by a corporation in which he has an interest. The subject property is not owned by Jiffy Lube; it is not owned by the corporation. Mr. Moore personally made an investment in the house. When Mr. Moore purchased the house it was uninhabitable. There had to be a lot of work done to the bathrooms and the kitchen to make it livable. Mr. Moore bought it because of the poor condition and thought he could make money off it by remodeling the house, renting it or selling it. Then he thought he could use it as office space by renting it to his manager, she could live there and use it as a space to do her work. Mr. Moore's manager is living with family members currently and looking for a place to live. A complaint was filed. Mr. Moore did not know he needed a Special Exception to have a tenant use the house as an office, and the process was started that leads him before the Board today. There was a complaint made about the boat and the boat has nothing to do with the business. The boat is Mr. Moore's and he is storing it at the house.

Mr. Van De Wiele asked Mr. Rusher why the boat was being stored at the house instead of someplace else because he does not live at the subject property. Mr. Rusher agreed that Mr. Moore does not live there. Mr. Van De Wiele stated that if Mr. Moore does not live there but stores a boat there then it becomes a storage facility not a home. Mr. Van De Wiele stated that he does not think the code allows him to store his personal property on someone else's property. Mr. Rusher stated that Mr. Moore owns the house, it is his. Mr. Van De Wiele stated that if he were renting a house he would not let the landlord store his boat at the rental property.

Mr. Van De Wiele asked Mr. Rusher if there was a signed lease. Mr. Rusher stated there was not because Mr. Moore is trying to figure out if he can receive this Special Exception so his manager can live at the house before he draws up a lease. Mr. Van De Wiele asked Mr. Rusher if this was going to be a traditional agreement where she is paying Mr. Moore rent. Mr. Rusher answered affirmatively.

Mr. Rusher stated that there had been a statement made that a lot of cars had been at the subject property. The days the pictures were taken there were manager's meetings being held at the house.

Mr. Van De Wiele asked about the picture dated Friday with all the cars at the property. Mr. Patrick Moore stated that was payroll day. Mr. Van De Wiele stated that his concern is that there are pictures in the Board's agenda packet dated December 12th, there are pictures taken on January 13th, and he drove by Friday afternoon, January 23rd, and there were four or five cars in the driveway and in the street. Mr. Van De Wiele stated that the conditions that would be on a home occupation does not allow cars in the street. So there are three instances, even though it is being said this is rare, but every instance the Board has seen there are several cars in the driveway and in the street. Mr. Van De Wiele stated he is not trying to stereo-type contractors but when he looks at the pictures, with the exception of one red pickup, he is not seeing a single contractor's vehicle in the driveway. This looks like business and that is a concern for him.

Mr. Rusher stated he understands but the employee is not living in the house yet. Mr. Van De Wiele stated that if that employee is there on the 13th, she is there on Friday, she is running a business out of the house even though she is not a legal inhabitant. Mr. Rusher stated that she is not yet the legal inhabitant because the applicant is trying to find out if this concept will work. Mr. Rusher stated that the Board has heard today that there is another home office in the neighborhood. There are people that have home offices in the neighborhood, that is not unusual.

Mr. Henke stated that home office has not been approved by the Board of Adjustment, because in the Board's packet there is no relevant Board history. Mr. Rusher stated there are plenty of home offices in the neighborhood because his client was told they hoped his request was approved because they were worried about their home office. The applicant is trying to things right. Mr. Rusher stated that it has been said that so many things are being stored in the garage that it cannot be used, but that is not true. There will be paperwork stored in the garage but it will not fill the garage. The tenant can park wherever she wants, in the garage, the driveway or the street.

Mr. Greg Moore came forward and stated that the picture taken on the 12th was a manager's meeting; on the 13th it was another manager's meeting; it is just coincidence that is when the pictures were taken. On Friday it was a payroll and again it is a coincidence as odd as it sounds. One of the vehicles in the picture is a family member of the employee who came to visit. Mr. Moore apologized for not being more prepared, but he and his father did attend the neighborhood association meeting but there were quite a few people that said they had home offices. Mr. Moore stated that several people did offer to come on behalf of he and his father but he did not call them. Mr. Moore stated that Councilor Karen Gilbert was at the meeting and she was very helpful.

Mr. Patrick Moore came forward and stated that it was said there was a vehicle identified as belonging to Jiffy Lube in the driveway, it was there to pick up records. Mr. Moore stated that it was said the house was livable, but that is not accurate. The house has had over \$20,000 in repairs on the inside; none of the bathrooms functioned; the kitchen sink was not functioning; there was a leak in the laundry room; and many other things. All the repairs were done in the spirit of this being a home not an office. Mr.

Moore stated that he purchased the house the company did not purchase the house, and it is an investment as a rental house for him. He did not realize some of the objections that have come up and he has changed his plans since. Mr. Moore stated that it was mentioned that he would bring congestion to the street, but on the corner of 44th and Darlington there is a house that has five cars parked in the driveway or on the street and always has. It is not declared as any sort of business. He does not know who lives in the house and he does not know why there are five cars there but they are always on the street. The agreement with his employee for renting the house included that he would store the boat in the back yard.

Mr. Henke stated that the boat storage isn't as concerning as the activity that has been going on with the meetings, payroll day, and people stopping by. People that have come before the Board in the past for home offices are so incredibly passive that a person driving by the house would have no idea of an office being in the house. As it was outlined by your attorney is more in line with the type of home office the Board reviews. But in your testimony, speaking to Mr. Patrick Moore, you stated that you would need to be at the house to deliver documents, work on payroll, it takes the request to a higher level when those things are being done. It is not like the young lady who said she is just on her computer. It is a different intensity once you introduce that employees will be in the house. Mr. Patrick Moore stated that he had not said anything about employees coming to the house except on meeting days. Mr. Henke asked Mr. Moore if he was stating that the only employees that would be at the house is himself, his son and the tenant/employee. Mr. Patrick stated that would be accurate in the future. The whole concept will change and he will not even have the manager's meetings there, which are really for the tenant/employee as much as they are for the managers. The tenant is the one who has the issues with the paperwork being turned in or other procedures. The meetings have been held in the stores in the past and will revert to having them in the stores as opposed as to having them at the house. The concern he hears continuously is that this is going to be more than it is and it is going to produce more intense commercial usage into the neighborhood. The rules that are set and allegedly enforced by this Board would preclude that. Mr. Henke stated the Board does not enforce the rules, the Board just grants Special Exceptions and Variances in certain circumstances.

Mr. Van De Wiele asked staff about the rules in Section 404.B and listed on page 3.3 in the agenda packet it states the home occupation must be an accessory to the dwelling, how does that apply to this situation. Mr. Swiney stated that according to the definition section of the Code, Section 18-1, the definition of accessory use is the use of a structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure. The Board has to make a decision as to whether this use being proposed is customarily incidental or subordinate to the principal use which is supposed to be a residence.

Mr. Van De Wiele asked if there was anything that required this to be the tenant's business. Can the tenant be an employee home bookkeeper or can she? The cases he has seen are more along the lines of a CPA doing his job at home. Mr. Swiney

asked if he meant similar to a freelance or self employed person? Mr. Van De Wiele answered affirmatively. Mr. Swiney stated there is no rule that says it has to be a person that is self employed. Mr. Van De Wiele asked about the manager's meetings, using the nine requirements in the packet, those are not her family members so he does not think it would be allowed using rule #2. Mr. Swiney agreed. Mr. Van De Wiele stated that if there is a meeting in a different room then it means there is more space being used for the home occupation. Mr. Swiney agreed. Mr. Van De Wiele stated that the sign on the Jiffy Lube truck seems to violate rule #3. Mr. Swiney agreed. Mr. Henke stated that it is not the tenant's truck. Mr. Van De Wiele stated that even it's not the tenant's truck signs are prohibited; it states signs that exceed two square feet even on a vehicle are prohibited. Mr. Swiney stated that under rule #3 it talks about the sign that is advertising the home occupation, and he thinks a Jiffy Lube car or truck parked in the driveway would be advertising that occupation. Mr. Van De Wiele stated that there is a maximum of 500 square feet of floor area, and there has been talk of the use of the garage and one room which would be more than 500 square feet. Mr. Van De Wiele stated that rule #9 states vehicles being used in conjunction with the home occupation cannot be parked in the street. Ms. Miller stated there are home occupations this Board has approved that anticipate customers coming to the home, i. e., the home hair salon. Mr. Van De Wiele stated that is not really visitors, a person cannot have another barber come to my home hair salon unless it is my brother who lives with me. Ms. Miller stated there can be a two square foot sign whether it be on the vehicle or on the house. Ms. Miller stated that the key that supports accessory use is the maximum square footage allowed. Mr. Van De Wiele agreed. Mr. Van De Wiele asked if the owner or his son stopping by for delivering paperwork or picking up checks fit within rule #2? Mr. Swiney stated that he did not think it did. Mr. Henke stated that he thinks the tenant would need to drive to the office to pick up the paperwork. Mr. Van De Wiele stated that he knows he is hearing a commitment from the applicant and his attorney that they will do what they need to do to be in compliance with the Code, but it seems like four or five out of nine of the requirements have clearly been violated. It feels like this house was bought to be used for business and if there is a renter that makes it better. Mr. Henke stated the Board cannot grant relief to the restrictions outlined. Mr. Van De Wiele stated this could home occupation could be approved if the occupant were the only one performing the work and there are no meeting on the property, no document exchanges done there. Mr. Van De Wiele stated that he is not inclined to approve this today.

Comments and Questions:

Ms. Snyder stated that she has concerns for the neighborhood and believes it is true what the neighbors say, that their neighborhood will begin further deteriorate if this granted.

Mr. White stated that the concerns the neighborhood has over this setting a precedent are valid, but he believes the Board should look deeper into this request. In the 18 years he has been on the Board there has never been a home occupation approved where the occupant of the house is not a principal in the firm itself. He understands what Mr. Moore would like to do but he thinks, as the Board has done in the past is to

recommend the applicant get a commercially zoned property. He believes this goes beyond the scope of home occupation, which is the key element.

Mr. Van De Wiele stated that it is not a requirement that the tenant be a principal of the business, but the home occupation must be accessory to the use. This feels more like it is a business where an administrative assistant lives rather than the administrative assistant occasionally does paperwork from home.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **DENY** the request for a Special Exception to allow an administrative office (Use Unit 11) as a home occupation in the RS-3 District (Section 402.6.b); for the following property:

LT 11 LESS W.5 & W 5 LT 12 BLK 4, MAX CAMPBELL FIFTH ADDN B3-6, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

21829—Gideon Okyere

Action Requested:

Verification of the spacing requirement for a liquor store from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3). **LOCATION:** 3130 East Pine Street **(CD 3)**

Presentation:

Gideon Okyere, 2025 North Rosedale Avenue, Tulsa, OK; no presentation was made but the applicant was available for any questions.

Mr. Henke stated the Board was in receipt of the applicant’s survey which is Exhibit 6.8, 6.9 and 6.10.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) based upon the facts in this matter as

they presently exist to **ACCEPT** the applicants request for a Spacing Verification for a proposed liquor store 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:

E 330' BLK 1, HAW INDUSTRIAL SUB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21830—Maria & Alfredo Perez

Action Requested:

Special Exception to permit an Office/Warehouse (Use Unit 15) in a CS District (Section 701, Table 1). **LOCATION:** 2020 South Maplewood Avenue **(CD 5)**

Presentation:

Maria Perez, 8922 South 43rd West Avenue, Tulsa, OK; stated she has just recently purchased the subject property. She introduced her architect and stated that he is very hard of hearing, and she will help him if need be, but he will be speaking on her behalf.

James Smiley, 6006 East 57th Place, Tulsa, OK; stated the subject property was previously a medical building and has been vacant for quite awhile. His clients would like to make the building into a shop with storage. It is proposed to have a heating and air conditioning shop on one side with an electrical shop in the other side. The proposed business would require 20 parking spaces which can be achieved by having them around the building by using a one-way drive around the perimeter. There will be a screening fence placed on the residential side of the building. His client plans on replacing all the inside framing with non-combustible framing leaving the existing outside walls as they are. Some of the windows would be replaced with glass block to allow light into the building but prevent easy breakage.

Mr. Van De Wiele asked if there would be any outside storage. Ms. Perez stated there would not be any outside storage.

Interested Parties:

There were several interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **APPROVE** the request for a Special Exception to permit an Office/Warehouse (Use Unit 15) in a CS District (Section 701, Table 1), subject to conceptual plans 7.18, 7.19 and 7.20. 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:

TR D W150 E180 N195.2 S370 SW SE SE SEC 10 19 13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21831—Shane Hood

Action Requested:

Variance to reduce the required off-street parking to 0 parking spaces in a CH District (Section 1211.D). **LOCATION:** 1229 & 1235 East Admiral Boulevard (CD 1)

Ms. Snyder recused herself at 2:23 P.M.

Presentation:

Shane Hood, 4919 East 26th Place, Tulsa, OK; stated this request is for the Topeca Roastery SCAA Lab. The proposed project is for an office space and a specialty coffee association certified Topeca teaching lab. The project will be in line with the Comprehensive Plan serving to reinforce the location both as an employment area and an area of growth. This location is coupled with the need for warehousing, storage and a manufacturing facility. Topeca has a proven track record of developing successful businesses in a variety of up and coming areas within the general downtown area. The subject properties were built in the 1920s prior to the parking requirements. The only parking available is on the street, parking on both sides of Admiral Boulevard. There is approximately 450 feet of parking on both sides of Admiral, and averaging about 25 feet per car probably 30 cars can fit in that space of East Admiral.

Mr. Van De Wiele asked Mr. Hood about the area west of the subject property. Mr. Hood stated the area west of the building is where Topeca stores their delivery trucks. They also have a food truck that they use. The project provides for the City's good by strengthening the City's Comprehensive Plan providing a solution that may serve as an employment area and an area of growth while providing economic viability to the area. The parking requirements as they are now the properties with no land for parking is an exceptional condition that prevents the redevelopment of the property, and serves as a substantial detriment to the surrounding area.

Mr. Van De Wiele asked Mr. Hood how many people work at the subject building. Mr. Hood stated there are ten employees and two of those employees make deliveries, so there are eight people on site at one time. The new teaching lab might have 10 to 20 people per class, but that is only for a specific time of day and will not be everyday.

Mr. Henke asked Mr. Hood if he thought he could accommodate 30 spaces on the street. Mr. Hood stated that he thought he could, and that is just the spaces on East Admiral in that block.

Interested Parties:

Marlin Brown, 14770 East 560 Road, Inola, OK; stated he has property in the same block as the subject building.

Mr. Van De Wiele asked Mr. Brown what sits on his lot. Mr. Brown stated he has a 25 x 80 building. Mr. Brown stated he is concerned about the parking.

Mr. Henke asked Mr. Brown if he had noticed a problem with the parking because there is plenty of parking on Admiral. Mr. Brown stated there has not been a problem up to this point, but there have been several times he has attempted to drive down the alley behind the subject building and there are vehicles parked in the alley. He did not think a person was allowed to park in an alley.

Mr. Van De Wiele asked Mr. Brown what type of business operated out of his building. Mr. Brown stated he is retired but does lease his building out, and he is a physical instructor. There is equipment in the building for physical fitness.

Rebuttal:

Mr. Shane Hood came forward and stated the congestion in the alley is probably due to the loading dock for Topeca. When the trucks come in to unload a delivery of fresh beans or to load up a truck for a delivery they are in the alley.

Mr. Van De Wiele asked Mr. Hood if the alley was being used for temporary loading and unloading. Mr. Hood answered affirmatively.

Mr. Henke asked Mr. Hood if the unloading and loading could be accomplished without blocking the alley. Mr. Hood stated that the intent is for drivers to pull as close as they can to the building to allow the alley to be open.

Mr. Hood stated that in terms of the time in which the classes will be held in the new teaching lab he would defer to Mr. John Gaberino.

John Gaberino, 1629 East 37th Street, Tulsa, OK; stated the classes will be held three days. Most students will be coming from around the country and will probably be staying in a hotel room in the downtown area utilizing public transportation to attend the meetings. His hope is to have one class a month up to four classes a month and typically two or three days a class. As for the deliveries, small vans are made to pull over as close to the building as they can but every once in awhile there is a semi that makes a delivery.

Mr. Henke asked Mr. Gaberino if he instructs everyone to not block the alley. Mr. Gaberino answered affirmatively.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-1 (Henke, Van De Wiele, White “aye”; no “nays”; Snyder “abstaining”; Tidwell absent) to **APPROVE** the request for a **Variance** to reduce the required off-street parking to 0 parking spaces in a CH District (Section 1211.D). The Board has found that the buildings in question were constructed prior to the current zoning code, and have been constructed all the way to the property line and do not provide for off-street parking for the lot in question. The Board has further found that the parking requirement for the location and the businesses that are currently operating at those locations are less than would typically be required by the code and find to be ample on-street parking in the immediate vicinity. 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 LTS 35 & 36 BEG SWC LT 35 N80.70 E47.95 SLY63.68 SW24.91 W24.57 POB BLK 4; LTS 31 THRU 34 BLK 4, BERRY ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Ms. Snyder re-entered the meeting at 2:33 P. M.

21832—Jordan Helmerich

Action Requested:

Variance to reduce the required off-street parking requirement to 0 in an CH District (Section 1214.D). **LOCATION:** 1513 East 11th Street **(CD 4)**

Presentation:

Jordan Helmerich, P. O. Box 52808, Tulsa, OK; stated this is basically a building that is unusable because of the parking. There are two or three spots behind the building that are commercially zoned so nothing can be placed in there without changing that.

Mr. Van De Wiele stated he is in favor of some reduction but the fact that two or three cars can be parked in the rear. Mr. Henke asked Mr. Helmerich how many cars he could get in the rear. Mr. Helmerich stated that there a person may be able to get two cars abreast and if a third car was parked there it would be blocking the first two in. Mr. Helmerich stated that he is not exactly land locked but the property to the east is

elevated so there is no access to the rear lot from the east; the only access is the alley. There is no practical way to access the rear.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **APPROVE** the request for a **Variance** to reduce the required off-street parking requirement to 0 in an CH District (Section 1214.D) to permit a commercial retail use. The Board has found that the age of this subdivision did not allow for an additional area for parking spaces and there is barely enough room to get two cars in the rear of the subject building. Many of the commercial structures in the area have similar parking problems and have come before the Board of Adjustment seeking relief the same which has been granted. 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:

W50 S5 LT 11 & W50 LTS 12 THRU 14 LESS S2.5 THEREOF FOR ST BLK 12, PARK DALE AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21833—John Gaberino

Action Requested:

Verification of the spacing requirement for an Adult Entertainment Establishment (Bar) of 300 feet from a church, school, or park in the CBD District (Section 1212a.C.3.b). **LOCATION:** 209 North Boulder Avenue **(CD 4)**

Presentation:

John Gaberino, 1629 East 37th Street, Tulsa, OK; no presentation was made but the applicant was available for any questions.

Mr. Henke stated the Board is in receipt the applicant’s survey which is Exhibits 10.9 and 10.10 in the Board’s packet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) 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 conflicting use be established prior to the expansion of this adult entertainment establishment; for the following property:

N25 LT 5 S25 LT 6 BLK 29, TULSA-ORIGINAL TOWN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21834—Rex McCracken

Action Requested:

Variance to enlarge a non-conforming structure (Section 1405.A); Variance to reduce the required west side yard setback; Variance to reduce the required rear yard setback; Variance from the land area per dwelling unit requirement to allow an addition to the existing house (Section 403, Table 3). **LOCATION:** 4169 East 48th Place **(CD 9)**

Presentation:

Rex McCracken, 4606 West 90th Street, Tulsa, OK; stated he is the contractor for the owner. The way the street curves and the position of the house causes the problem. Initially he believed that area had five foot easements and now they are ten feet on the sides and 15 feet from the rear. The house is in a RS-2 zoned area.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **APPROVE** the request for a Variance to enlarge a non-conforming structure (Section 1405.A); Variance to reduce the required west side yard setback; Variance to reduce the required rear yard setback; Variance from the land area per dwelling unit requirement to allow an addition to the existing house (Section 403, Table 3), per Exhibit on page 11.11. The Board has found that the configuration of the lot, both on the street frontage and the side lot lines restrict the buildable area on the rear of the house, and that is which is going to be added per

11.11 is actually not going to encroach on any of the original side yard setbacks. 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:

LT 19 BLK 31, PATRICK HENRY B24-37, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21835—Mark Capron

Action Requested:

Special Exception to permit a car wash (Use Unit 17) in a CS District (Section 701, Table 1). **LOCATION:** 1435 North Lewis Avenue **(CD 3)**

Presentation:

Mark Capron, Sizemore & Weisz, 6111 East 32nd Place, Tulsa, OK; stated he thinks the staff report is very thorough and supportive of this application, and he will be happy to answer any questions the Board may have.

Mr. Van De Wiele asked Mr. Capron about the noise level of the equipment and the hours of operation for the car wash. Mr. Capron deferred to Mr. Jimmie Short.

Jimmie Short, 399052 West 4100 Road, Collinsville, OK; stated the noisiest thing in a car wash are the blowers. The particular blowers this car wash will be using have silencers built into them, and they will be facing North Lewis next to a tin building which is currently a golf ball shop. The vacuums will also be muffled. The hours of operations will be from 8:00 A.M. to 8:00 P.M., seven days a week but Sunday will have shorter hours.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-1 (Henke, Van De Wiele, White “aye”; no “nays”; Snyder “abstaining”; Tidwell absent) to **APPROVE** the request for a Special Exception to permit a car wash (Use Unit 17) in a CS District (Section 701, Table 1), subject to conceptual plan on page 12.13. The hours of operation are to be no earlier than 8:00 A. M. and no later than 9:00 P.M., seven days a week. 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 1 BLOCK 1, BELLEVUE HGTS, TRIPLE 'S' ADDN REPLAT LTS 4 THRU 6 AND LTS 19 THRU 21 BLK 2 BELLEVUE HGTS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21836—Duff Real Estate, LLC – Austin Morgan

Action Requested:

Special Exception to expand warehouse use (Use Unit 23) in a CG District (Section 701, Table 1). **LOCATION:** 40 North 129th East Avenue **(CD 3)**

Presentation:

Charles Russwell, 6905 Hogeyville School Road, Brenham, TX; stated this proposal is to add 15,000 square feet to an existing warehouse.

Mr. Van De Wiele asked if the expansion was going to get all the tires out of the open air. Mr. Russwell answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **APPROVE** the request for a Special Exception to expand warehouse use (Use Unit 23) in a CG District (Section 701, Table 1), subject to conceptual plan 13.8. There is to be no outside storage of any tires on the property. 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 and LT 4, BLK 1, M & M PROPERTIES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21583-A—Wallace Engineering – Jim Beach

Action Requested:

Modification of a previously approved site plan (BOA-21583) to permit Phase II of the Field House expansion (Bishop Kelley High School). **LOCATION:** 3905 South Hudson Avenue **(CD 5)**

Presentation:

Jim Beach, Wallace Engineering, 200 East Brady Street, Tulsa, OK; stated this case was before the Board in June 2013 for Phase I work on the site. This request is for Phase II, an expansion of the field house addition. The expansion will be about one-third of the existing field house.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Tidwell absent) to **APPROVE** the request for a Modification of a previously approved site plan (BOA-21583) to permit Phase II of the Field House expansion (Bishop Kelley High School), subject to conceptual plans on pages 14.18 and 14.19. Finding that the modification to be compatible with and non-injurious to the surrounding area and meets the previously granted Board relief and zoning code requirements per code; for the following property:

A TRACT OF LAND IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 19 NORTH, RANGE 13 EAST, CITY OF TULSA, TULSA COUNTY STATE OF OKLAHOMA, BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING 674.75 FEET NORTH AND 85 FEET EAST OF THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE EASTERLY 360 FEET; THENCE SOUTHERLY 200 FEET; THENCE EASTERLY 340 FEET; THENCE SOUTHERLY 125 FEET; THENCE EASTERLY 352.24 FEET; THENCE SOUTHEASTERLY 99.17 FEET TO THE NORTHWESTERLY RIGHT OF WAY OF SKELLY DRIVE; THENCE NORTHEASTERLY ALONG SAID RIGHT OF WAY TO A POINT ON THE EAST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTHERLY ALONG SAID EAST LINE TO A POINT 463 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTHWESTERLY 50.98 FEET; THENCE NORTHERLY 1,502 FEET; THENCE NORTHWESTERLY 106.01 FEET; THENCE WESTERLY 447.54 FEET; THENCE SOUTHERLY 200 FEET; THENCE WESTERLY 700 FEET; THENCE SOUTHERLY 1,215.25 FEET TO THE POINT OF BEGINNING, 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 2:53 p.m.

Date approved: 2/10/15

Frank X. Harris, Jr.

Chair