

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1135
Tuesday, March 10, 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 Tidwell, Secretary Van De Wiele White, Vice Chair	Snyder	Miller Moye Foster Sparger	Edmiston, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, March 5, 2015, at 3:16 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

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 understanding and no one requested a continuance.

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 February 24, 2015 Board of Adjustment meeting (No. 1134).

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UNFINISHED BUSINESS

21845—A-MAX Sign Company – Lori Worthington

Action Requested:

Variance to permit an electronic message center within 200 feet of an R District (Section 1221.C.2). **LOCATION:** 6110 South Lewis Avenue **(CD 2)**

Presentation:

Brian Ward, A-MAX Sign Company, 9520 East 55th Place, Tulsa, OK; stated he met the homeowners that are not in agreement with the proposed electronic message center. They met once in the afternoon and again at night to look at the lighting of the area. Mr. Ward presented a couple of photos that he took at night to show the CVS sign and the cornice lighting on the building. Mr. Ward stated he did receive approval from CVS to remove the lighted wall sign on the west side of the building and replace it with a non-lighted sign if the Variance request was approved. Mr. Ward stated that he has made attempts to speak with his contact at CVS to discuss the cornice lighting, because it seems to be the major problem.

Mr. Van De Wiele asked Mr. Ward if he met with the neighbors one night and turned on the light as previously discussed at the last Board of Adjustment meeting. Mr. Ward answered affirmatively. Mr. Van De Wiele asked Mr. Ward if he had a picture of that event. Mr. Ward presented a picture which Ms. Moyer placed on the overhead projector for discussion.

Mr. Tidwell stated that he went to the subject site at night and stated that he was stunned at how bright the cornice lighting on the CVS building is. He went to another CVS to see if that store was designed in the same manner as the subject site and he did not see any cornice lighting. Mr. Tidwell asked Mr. Ward if all the stores had cornice lighting. Mr. Ward stated that he has not seen all the stores, but the one thing that makes this store unique is they built as far west as possible and made the alley the access to the drive-thru window and there is not a lot of room for pole lights. Mr. Ward stated that the cornice lighting is not all the way around the building.

Mr. Van De Wiele asked Mr. Ward if there was a way of shielding the cornice lighting. Mr. Ward thought there could be a resolution reached.

Mr. Tidwell asked Mr. Ward if CVS had entertained the idea of doing away with some of the cornice lighting on the west side of the building. Mr. Ward stated that he has not received a reply at all on the lighting.

Mr. White asked if the Kennebunkport rule apply to this situation. Ms. Miller stated that she did not think that it does apply here. She does not know if there is a rule on the

brightness of walls signs, but it is definitely something that needs to be studied because it has become a problem.

Mr. Van De Wiele asked if the window that is seen on the neighboring building in the picture, and is well lit, is the window of Ms. Trankel's condo. Mr. Ward answered affirmatively. Mr. Van De Wiele asked Mr. Ward if there was a light tucked up under the eave of the building to make so well lit. Mr. Ward stated there is a high pressure sodium light fixture that is probably a security light.

Mr. Henke asked Mr. Ward if those poles could be used for down lighting facing the CVS building so they would be facing away from the neighboring building. Mr. Ward stated that is probably not possible because they are probably a PSO utility pole leased light.

Mr. Ward stated that he would like to be able to meet with the CVS staff, have them visit the subject site and see if a resolution could be reached.

Mr. Henke stated that, speaking for himself, it is hard to approve even more lighting to a situation that probably has too much. He would like to hear back from CVS for a resolution on the impact on the neighboring residential area.

Interested Parties:

Cindy Trankel, 6132 South Zunis Avenue, Tulsa, OK; stated that the picture on the overhead project is of her spare bedroom which is on the east side, and her master bedroom faces north so she can see CVS from all angles. After the last meeting she went to the store two different times and CVS did not show up so she did not get any of her questions answered, only from Mr. Ward. Ms. Trankel stated the message board has been turned on and runs 24 hours a day. She feels that if the Board were to approve this request it would be adding insult to injury. She thinks there is too much light at this point. Ms. Trankel stated that she canvassed the neighborhood about the message board and all she received was negative comments and no one likes it. She is worried about property devaluation.

Mr. Van De Wiele asked Ms. Trankel if the dominant light source was the single light on the pole. Ms. Trankel stated that the pole light had been there as long as she has lived there, and stated that Tanglewood leases for the pole lights in the neighborhood from PSO, and they are very low lights. Ms. Trankel stated that the cornice lights go off at 10:40 P.M. and come back on at 6:00 A.M. every day.

Mr. Van De Wiele stated that he thinks there is a definite problem and that the primary culprit is the cornice lighting and secondly the CVS wall sign. He does not know how much the message center is adding to the problem but until the problem is solved he is not willing to create more of a problem.

Ms. Trankel stated she is opposed to the message center because CVS has another pylon sign on the east side of their property that faces Lewis Avenue, so she sees no

reason for the proposed message board. Ms. Trankel stated that if the message board were to be placed on the east side it would not be visible to any one in the neighborhood.

Mr. Tidwell asked Ms. Trankel what time the store closed. Ms. Trankel stated the store closes at 10:00 P.M.

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 **CONTINUE** the request for a **Variance** to permit an electronic message center within 200 feet of an R District (Section 1221.C.2) to the March 24, 2015 Board of Adjustment meeting; for the following property:

LT 1 LESS N10, MICHAEL'S GLEN RESUB L2-4 OF RESUB L1 PECAN ACRES, PECAN ACRES, PECAN ACRES RESUB L1, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21851—Barron & McClary – Bert Pohl

Action Requested:

Variance of the required rear yard setback in the RS-3 District from 25 feet to 4.3 feet to permit an existing garage (Section 403, Table 3); Variance of the required garage setback from 20 feet to 15.2 feet (Section 403.A.5); Minor Variance of the required side yard setback in the RS-3 District from 5 feet to 4.2 feet to permit an existing pool house and carport (Section 403, Table 3). **LOCATION:** 1568 South Yorktown Place **(CD 4)**

Mr. White recused himself at 1:17 P.M.

Presentation:

Jim McCullis, Barron & McClary General Contractors, 1424 South Harvard, Tulsa, OK; Mr. McCullis presented a survey of the subject property to the Board. Mr. McCullis stated the survey found that the pool house is a little closer than originally was shown on the mortgage inspection report.

Mr. Henke stated that due to the discrepancy the Board is not able to act on this request and the applicant will need to meet with INCOG staff because more relief is needed.

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, Tidwell, Van De Wiele “aye”; no “nays”; White “abstaining”; Snyder absent) to **CONTINUE** the request for a Variance of the required rear yard setback in the RS-3 District from 25 feet to 4.3 feet to permit an existing garage (Section 403, Table 3); Variance of the required garage setback from 20 feet to 15.2 feet (Section 403.A.5); Minor Variance of the required side yard setback in the RS-3 District from 5 feet to 4.2 feet to permit an existing pool house and carport (Section 403, Table 3) to the April 14, 2015 Board of Adjustment meeting for a renotification; for the following property:

LT 7, SEVEN ACRES PLACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. White re-entered the meeting at 1:22 P.M.

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NEW BUSINESS

21856—Johnathan Crump

Action Requested:

Variance to reduce the rear yard setback from 25 feet to 4 feet; Variance to reduce the west side yard from 10'-0" to 2'-2" foot to permit an addition to the existing garage; Variance to reduce the east side yard setback from 5 feet to 3 feet 6 inches to permit an addition to the existing housing (Section 403, Table 3). **LOCATION:** 1131 East 26th Street **(CD 4)**

Presentation:

Johnathan Crump, 1131 East 26th Street, Tulsa, OK; stated the subject property is located in Maple Ridge. The garage is not large enough to house a F250 Ford pickup which his wife uses as a gardening volunteer. Currently the truck is parked either in the street or in the driveway. The existing garage is a detached brick structure with a wooden floor, and that floor would not support the truck. He would like to add a bay on to the existing garage and then make the existing garage a workshop. The side setback is required for the width of the pickup truck to enter and park in the garage. The building permit submittal states a 2'-2" setback and he would request a 1'-0" setback.

As long as he is going to the expense of installing a firewall and placing it that close to the property line he feels by doing so it would allow easier access of getting and out of the truck. If he is approved for the 1'-0" setback he will resubmit to the City for a building permit with a 1'-4" setback to have leeway. The reason for 5'-0" setback is to allow a laundry room addition to the house.

Mr. White asked Mr. Crump when his house was built. Mr. Crump stated the house was built in 1926.

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, White, Van De Wiele "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the request for a Variance to reduce the rear yard setback from 25 feet to 4 feet; Variance to reduce the west side yard from 10'-0" to 1'-0" foot to permit an addition to the existing garage; Variance to reduce the east side yard setback from 5 feet to 3 feet 6 inches to permit an addition to the existing housing (Section 403, Table 3), subject to conceptual plan 4.16 with the modification of the west side yard being 1'-0" not 2'-2". The Board has found that the house built in 1926 with a relatively small lot is need of a larger garage for modern day vehicles, and the laundry room on the east side would take care of the shortage of space. The Board finds that these additions are in keeping with the side yards and setbacks in many of the homes in Sunset Terrace Addition. 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 10 BLK 9, SUNSET TERRACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21857—Sajjad Ali Khan

Action Requested:

Variance to reduce the required rear yard setback from 20 feet to 11 feet to permit an addition to the existing home (Section 402.B.1.a and Section 403, Table 3).

LOCATION: 3425 South 116th East Avenue (**CD 6**)

Presentation:

Jamshed Khan, 3416 South 117th East Avenue, Tulsa, OK; stated he is before speaking on behalf of his brother. His brother hired a contractor to build the addition on to the house, and the contractor told him at the time he was following all the laws and paid for all the permits. Later he found out when the main water line broke the water erupted in his backyard and the City required him to find out where the leak was located. It was discovered that the leak was in the City line and the City repaired the line. That is when he found out that the addition was too close to the rear fence.

Mr. Van De Wiele asked Ms. Moye to display exhibit 5.4 on the overhead projector. Mr. Van De Wiele asked Mr. Khan if the addition in the picture is actually what was built and what is being asked for as a proposed addition. Mr. Khan 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, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Variance to reduce the required rear yard setback from 20 feet to 11 feet to permit an addition to the existing home (Section 402.B.1.a and Section 403, Table 3), subject to “As Built” on page 5.7. The Board has found that the extension is only 20’-0” wide is similar to many other residential extensions in the neighborhood and does not adversely affect any adjoining properties. 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 7 BLK 8, BRIARGLEN ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21858—Darshan Patel / Weldon Bowman

Action Requested:

Verification of the 300 foot spacing requirement for a liquor store (Section 1214.C.3). **LOCATION:** 7435 East Admiral Place **(CD 3)**

Presentation:

Weldon Bowman, W Design, 1513 East 15th Street, Suite A, Tulsa, OK; stated the 300 foot spacing verification is for the Crown Spirits Liquor store.

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) that based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant’s verification of the spacing for the proposed liquor store subject to the action of the Board being void should another liquor store or other conflicting use be established prior to the establishment of this liquor store; for the following property:

PRT LT 13 BLOOMFIELD HGTS & A TRACT OF LAND BEG 30N & 30.5E SWC LT 13 BLOOMFIELD HGTS TH W126.5 N225.77 TO S R/W EXPY TH NE ALG R/W 126.53 TO PT 30.5E WL LT 13 TH S229.26 POB SEC 2 19 13 .50AC, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21859—Gable Gotwals – Steve Schuller

Action Requested:

Special Exception to permit used and new automobile sales in the CS District (Section 701, Table 1). **LOCATION:** 12828 East 11th Street (**CD 6**)

Presentation:

Steve Schuller, 1100 OneOk Plaza, 100 West 5th Street, Tulsa, OK; stated the subject property is a former gasoline station and convenience store which has been closed for several years. The subject property is surrounded entirely by CS zoning on the north, west and south sides, by CG zoning on the east side, and diagonally across the intersection there is CH zoning. This property does not adjoin or abut any residentially zoned areas. The nearest residentially zoned area is approximately 300 feet away. The subject property is just under one acre with the south 50 feet of the property being unimproved. The tanks were removed and the soil has been remediated from when it was a former gasoline station, which was done under the supervision of the Oklahoma Corporation Commission and the Department of Environmental Quality. There is a small building for a sales office, and the overhead canopy still exists making the property ideally suitable for automobile sales. There is ample parking on site and east accessibility to the adjoining arterial streets. No one has expressed an opposition to the proposed use of the subject property.

Mr. Henke asked Mr. Schuller if he had seen the e-mail from Carolyn Harder, dated February 26th, that was sent to staff. Mr. Schuller stated that he had seen it, and he understands that she wants a restriction on outside storage but that will be restricted by the size of the lot. The zoning code permits only so much outside storage. There will be no repairs of vehicles on site or storage of disabled vehicles. This will be only a small sales office. The subject property will have landscaping so it will be in compliance with the code.

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** the request for a **Special Exception** to permit used and new automobile sales in the CS District (Section 701, Table 1). 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:

**N250 E250 NE NE NE LESS TR BEG NEC NE TH W250 S58 E176 TO PT 58S & 74W
NEC NE TH SE36.88 TO PT 86S & 50 W NEC NE TH S164 E50 N250 POB FOR ST
SEC 8 19 14 .873AC, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

21860—Oil Capital Neon – Brandon Moydell

Action Requested:

Variance to allow a digital sign within 200 feet of an R District (Section 1221.C.2.c).

LOCATION: 2242 East 56th Place **(CD 9)**

Presentation:

Justin Reed, Oil Capital Neon, 4419 East 55th Place, Tulsa, OK; stated he is representing Dr. Robards of Southern Hills Veterinary Hospital. The message center will be a single sided message center. The sign height will not be changed. The upper part of the sign face will be changed with the message center installed on the bottom portion. The hardship is that it falls within 200 feet of an R District, and the church parking lot north of the subject property is the only building that falls within that district. The message center will only be facing east so it will not be facing the residential neighborhood to the west. The western side of the subject sign will be a changeable letter board.

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** the request for a **Variance** to allow a digital sign within 200 feet of an R District (Section 1221.C.2.c), subject to conceptual plan 8.8 showing the size and location of the sign. The Board has found that the proposed digital sign is on the east face only. The only residential area possibly impacted by this sign is a church property to the north and church parking lot of the church facility and, as such, the protection afforded by the code would propose a hardship for the placement of this sign. 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:

BEG. 543'S & 205'W NE COR. NE SE TH. N. 125'W 80'S 125'E. 80' TO BEG. SEC 31-19-13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21861—Roger Eldredge

Action Requested:

Special Exception to permit parking on a lot other than the lot containing the principal use (Section 1301.D); Acknowledgement that the tie agreement imposed by BOA-20647 has been terminated. **LOCATION:** SE/c of East Admiral Place and North Sandusky Avenue **(CD 4)**

Presentation:

Roger Eldredge, Attorney, Ladner & Eldredge, 320 South Boston Avenue, Tulsa, OK; stated he represents the applicants, Paula and Stuart Wright. In 2008 the Wrights purchased two separate tracks of land that are on either side of Sandusky Avenue. At the time of the purchase the plan was that the land on the western side of Sandusky would be used for their funeral home business. There was a small historic church on Tract A that they also purchased separately, and the plan there was to use the church on the property as a chapel that was to be associated with the general funeral operations. In 2008 Mr. Eldredge’s former business partner came before the Board and requested for a few Variances and Special Exceptions, and the result was the two tracts of land were tied together with a tie agreement. In a couple of years it became apparent to the owners that there was no need for the church property because the majority of their work is cremation without services. The owners have contracted to sell Tract A to

another church for their services. He would like to have the Board acknowledge that the tie agreement is terminated between Tract A and Tract B. He would also like to have a Special Exception approved that would allow part of the parking for Tract A to be supplied by Tract B, to which the owners will continue to have the rights. Because of the variety of the two operations on the two properties will not cause a conflict. The church that will operate on Tract A has services on Sunday morning and Wednesday evening. The funeral facility does not have services on Sunday mornings or Wednesday evenings.

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** the request for a Special Exception to permit parking on a lot other than the lot containing the principal use (Section 1301.D), subject to site plan 9.16. The Board has found that the operations of the church or business conducted on Tract A and Tract B as shown on 9.16 are such that the parking load requirements will be complimentary of one another such that the overflow parking from Tract A onto Tract B would occur on days or hours when the business on Tract B is not in operation. The Board also Acknowledges that the tie agreement imposed by BOA-20647 has been terminated, subject to the recording as the approval and the recording of a Cross Parking Easement similar to that as shown on pages 9.20, 9.21 and 9.22, and the applicant will provide the same to INCOG staff. 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 21 LESS N29.25 FT THEREOF FOR RD, LT 124, LT 125 BLK 2, RODGERS HGTS SUB, 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 2:01 p.m.

Date approved: 3/24/15

Frank X. Am. Jr.
Chair