

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1088  
Tuesday, February 26, 2013, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2<sup>nd</sup> Street

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Henke, Chair Snyder Tidwell, Secretary	Van De Wiele White, Vice Chair	Miller Back Sparger	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, February 21, 2013, at 11:38 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.

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

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**MINUTES**

On **MOTION** of **TIDWELL**, the Board voted 3-0-0 (Henke, Snyder, Tidwell "aye"; no "nays"; no "abstentions"; Van De Wiele, White absent) to **APPROVE** the **Minutes** of the February 12, 2013 Board of Adjustment meeting (No. 1087).

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Mr. Henke explained to the applicants that there were only three 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 all three board members to constitute a majority and if one or 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 and no one stood to ask for a continuation. The hearing proceeded.

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**UNFINISHED BUSINESS**

None.

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**NEW BUSINESS**

**21538—Nathan Cross**

**Action Requested:**

Variance of the front yard setback from 60 feet to 52.5 feet in the RS-1 district for construction of a new single-family residence (Section 403.A, Table 3). **LOCATION:** 4421 South Atlanta Place East **(CD 9)**

**Presentation:**

The applicant did not come forward, but had previously requested a continuance to have his relief request heard by a full board.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **TIDWELL**, the Board voted 3-0-0 (Henke, Snyder, Tidwell “aye”; no “nays”; no “abstentions”; Van De Wiele, White absent) to **CONTINUE** the request for a Variance of the front yard setback from 60 feet to 52.5 feet in the RS-1 district for construction of a new single-family residence (Section 403.A, Table 3), to the Board of Adjustment meeting on March 12, 2013; for the following property:

**W121 S125 LT 16 LESS W20 THEREOF FOR ST, BARROW'S ORCHARD ACRES, REESEWOOD ADDN RESUB TR 10 & W/2 TR 15 BARROWS ORCHARD ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21539—Marcus Makar**

**Action Requested:**

Special Exception to allow a trapeze (Use Unit 20 – Not Elsewhere Classified) in a RM-2 district (Section 401, Table 1). **LOCATION:** 1918 South Boston Avenue East **(CD 4)**

**Presentation:**

The applicant did not come forward, but had previously requested a continuance to have his relief request heard by a full board.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **TIDWELL**, the Board voted 3-0-0 (Henke, Snyder, Tidwell "aye"; no "nays"; no "abstentions"; Van De Wiele, White absent) to **CONTINUE** the request for a Special Exception to allow a trapeze (Use Unit 20 – Not Elsewhere Classified) in a RM-2 district (Section 401, Table 1), to the Board of Adjustment meeting on March 12, 2013; for the following property:

**LT 20 BLK 1, BOSTON ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21192-A—Vanessa Somerville**

**Action Requested:**

Verification of the spacing requirement for an Adult Entertainment Establishment (bar) of 50 feet from an R district and 300 feet from a public park, school, or church (Section 1212a.C.3); Variance of the spacing requirement for an Adult Entertainment Establishment (bar) from another Adult Entertainment Establishment (Section 1212a.C.3); Variance of the parking requirement from 22 parking spaces to 0 parking spaces for a (Use Unit 12a) bar for space known as 1323 East 6<sup>th</sup> Street South, 8 parking spaces to 0 parking spaces for (Use Unit 11) offices, and 24 parking spaces to 0 parking spaces for a (Use Unit 12) restaurant for building known as 1319 East 6<sup>th</sup> Street South (Section 1200). **LOCATION:** 1319 East 6<sup>th</sup> Street South and Tenant Space known as 1323 East 6<sup>th</sup> Street South **(CD 4)**

**Presentation:**

**Vanessa Somerville**, 1123 South Xanthus Place, Apt. D, Tulsa, OK; no presentation was made but the applicant was present for any questions.

Mr. Henke asked what triggered the variance request for the bar. Ms. Somerville stated The Eclipse, across the street, serves beer but they are only open for events and the serving of beer qualifies it as an adult entertainment establishment. Mr. Henke stated there was comment regarding The Eclipse did not have a liquor license. Ms. Somerville stated The Eclipse does not hold a liquor license. Right now The Eclipse is just a music venue open for events maybe twice a month.

Mr. Tidwell asked Ms. Somerville how the Form-Based Code would interact with her establishment if the code were established. Ms. Somerville stated that she would not have any parking requirements, and the spacing requirements would not be an issue either. The whole point of the Form-Based Code is to make an area a living and working area.

**Interested Parties:**

**K. F. Rahhal**, 4363 East 72<sup>nd</sup> Street, Tulsa, OK; stated he has been before the Board on two different occasions. He loves the neighborhood and the people of the area. He is before the Board today to neither say, deny or accept the relief requested. Mr. Blake Ewing has brought in a beautiful establishment to pick up bagels, and the concept is such that people spend two or three hours at a time. The Eclipse is one of Mr. Rahhal's establishments and it is for young artists. Right now the problem is that he has eight driveways between the subject property and the next street, and some of the driveways are for apartment buildings. He has eight or ten front doors to businesses around the subject property, which are different stages of rehab. Currently he is working on remodeling a building to open a restaurant in, and he cannot find an area to unload the building materials from his vehicle. The City has a role to play in this neighborhood and obligation to review the existing situation that has been created, because there is a problem in the neighborhood. As it is today, an ambulance or fire engine could not get into a driveway to service a tenant or building. He would like to see 45 degree angled parking in the area. The area needs to be studied before any more approvals are given to properties in the area. He has had a fascination with the area since his college days in 1971, and through the years he has purchased no less than 25 pieces of property in the area. He does not want to be a negative force for any property owner in the area but he wants to be able to access his driveways.

Ms. Back stated that if Mr. Rahhal has a restaurant that has an accessory use bar, the spacing verification that Ms. Somerville is requesting would be a moot point because it is an accessory use. Also, when the neighborhood was zoned OH there was no parking requirements and that would be historical for this case.

**George Vlasios**, 1812 South Cheyenne, Tulsa, OK; he is working with Mr. Rahhal as his architect for his properties. He and Mr. Rahhal are working very actively on his properties in the area, and he has lots that could be developed into parking in the future. Mr. Rahhal hopes to have the properties near the subject property developed within the next 18 to 24 months. Mr. Vlasios stated that he and Mr. Rahhal are not against the zero parking, but there is clearly an issue that exists with the parking. He would like to see something similar to Cherry Street established, where the two outer lanes are angled parking. If that were to happen it would immediately increase the amount of parking spaces without putting any infrastructure or money toward the project except for the striping. If this were to happen it would alleviate a lot of the problems that Mr. Rahhal has referred to. He and Mr. Rahhal want to make the City aware there are problems in the area and open up a dialogue with the City and other business owners in the area.

Mr. Henke asked Mr. Vlasios if he or Mr. Rahhal had discussed this with Blake Ewing, their City Councilor because he did send in a letter on Ms. Somerville's behalf. Mr. Vlasios stated there preliminary plans being put together with a master plan and time table. Mr. Rahhal stated he had spoken with Mr. Ewing.

**Rachel Navarro**, 1434 South Quincy Avenue, Tulsa, OK; stated she and her husband own the subject property. She wanted the Board to know she was present should they have any questions for her. She and Ms. Somerville have met with the other businesses in the block and they said they have not had any problems with the parking. She will have six employees for the subject property.

Ms. Snyder asked Ms. Navarro if she had been aware of the parking situation when she went into the neighborhood. Ms. Navarro stated that she was aware of the parking situation when that area was chosen for the business. She loves the area and likes the idea that has been presented for the area.

**Comments and Questions:**

Mr. Henke asked Ms. Back to address the zoning for the area again. Ms. Back stated the OH and CH zoning were not required to have parking when the neighborhood was originally built. When the neighborhood was originally built that underlying zoning for the area did not require parking for the area or the subject property. Thus, that is why it was built to the property lines before the 1970 code was in place. Once the 1970 code was in place the zoning that was on the subject property specifically stated there was no parking required.

Ms. Miller stated the Form-Based Code is in a very small area. For the past couple of years the Planning Commission has been looking at what area of the Form-Based Code should be expanded. The area that is being discussed is included in the area that is under discussion for expansion of the Form-Based Code. There has been a series of three workshops just completed with the public, residents of the neighborhood and all interested parties. These workshops were very heavily attended and people had opinions in both ways. All of the information that was deduced from these workshops will be presented to the Planning Commission, and they will decide next week what the next step in the process will be. The number one issue raised in these workshops was parking. There is a Form-Based Code that has specific restrictions and regulations on parking and building form. Ms. Miller stated that the Form-Based Code that currently exists that exempts all parking requirements may be changed in the future from the Planning Commission's directions.

Ms. Back asked Ms. Miller to address the conversations in regards to the City, in the future, providing parking in the subject area because that was also discussed. Ms. Back asked Ms. Miller to explain why there was no commitment made about the parking. Ms. Miller stated that she did not want to speak for the City, because she is not sure that it is identified on any Capital Improvement Plan. Ms. Miller stated that Ms. Dawn Warrick, the Planning Director, has spoken developing a parking strategy that the City could invest in for the subject area.

Ms. Back stated that Ms. Navarro had requested a restaurant use, not knowing whether a restaurant use was going in or not, because it was a more restrictive use. She did this so if a restaurant were installed on the subject property, she would have the approved parking for the possible establishment.

Ms. Back stated there are a lot of buildings in this area that are built to the property lines and they absolutely cannot comply with parking. There are buildings in the area that are not useable unless there is a variance request granted from the current code.

Mr. Henke stated that he thought the preference would be to utilize the buildings rather than tear them down and make a parking lot.

**Board Action:**

On **MOTION** of **SNYDER**, the Board voted 3-0-0 (Henke, Snyder, Tidwell "aye"; no "nays"; no "abstentions"; Van De Wiele, White absent) to **APPROVE** the request for a **Verification** of the spacing requirement for an Adult Entertainment Establishment (bar) of 50 feet from an R district and 300 feet from a public park, school, or church (Section 1212a.C.3); **Variance** of the spacing requirement for an Adult Entertainment Establishment (bar) from another Adult Entertainment Establishment (Section 1212a.C.3); **Variance** of the parking requirement from 22 parking spaces to 0 parking spaces for a (Use Unit 12a) bar for space known as 1323 East 6<sup>th</sup> Street South, 8 parking spaces to 0 parking spaces for (Use Unit 11) offices, and 24 parking spaces to 0 parking spaces for a (Use Unit 12) restaurant for building known as 1319 East 6<sup>th</sup> Street South (Section 1200). 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. Furthermore, finding that the historical requirement of the building does not require parking for the building's use. Based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant's verification of the spacing requirement for an adult entertainment establishment (bar) of 300 feet from public park, school, or church subject to the action of the Board being void should another above referenced conflicting use be established prior to this liquor store; for the following property:

**E66 S72 LT 5 LESS BEG 65.5W SECR THEREOF TH N18.5 E0.8 N45.5 W1.3 S64 E0.5 POB BLK 8, FACTORY ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

## **21515-A—Douglas E. Meyer**

### **Action Requested:**

Variance of the perimeter height for a carport from 8 feet to 10 feet (Section 210.B.10.d). **LOCATION:** 1030 East 38<sup>th</sup> Place South **(CD 9)**

### **Presentation:**

**Douglas Meyer**, 7528 South 82<sup>nd</sup> East Avenue, Tulsa, OK; stated he wants to raise the perimeter height of a carport from 8 feet to to 10 feet to aesthetically follow the existing roof line of the house.

### **Interested Parties:**

There were no interested parties present.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **TIDWELL**, the Board voted 3-0-0 (Henke, Snyder, Tidwell “aye”; no “nays”; no “abstentions”; Van De Wiele, White absent) to **APPROVE** the request for a Variance of the perimeter height for a carport from 8 feet to 10 feet (Section 210.B.10.d). 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 5, NILES RESUB E/2 L7 BROCKMAN'S ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

## **08181-A—Jack Bubenik – City of Tulsa Parks**

### **Action Requested:**

Modification to a previously approved site plan (BOA-08181) to replace existing identification sign for Lacy Park. **LOCATION:** 2134 North Madison Place **(CD 1)**

### **Presentation:**

**Jack Bubenik**, City of Tulsa Parks Department, 175 East 2<sup>nd</sup> Street, Tulsa, OK; stated the City will be replacing an existing sign in several parks throughout the city. The parks to be included in the modification at this time are Lacy Park, Whiteside Park, Woodward Park, Hicks Park, Owen Park, Henthorne Park, Reed Park, Chamberlain Park, Braden Park and Newblock/Waterworks Art Center.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **TIDWELL**, the Board voted 3-0-0 (Henke, Snyder, Tidwell "aye"; no "nays"; no "abstentions"; Van De Wiele, White absent) to **APPROVE** the request for a **Modification** to a previously approved site plan (BOA-08181) to replace existing identification sign for Lacy Park. Finding the modification to approving the conceptual plans submitted for funded items, and unfunded items conceptually approved, require no further Board of Adjustment action; finding the proposed improvements to be compatible with the neighborhood in the previous approved special exception, such modification meets the current zoning requirements; for the following property:

**LTS 13 THRU 24 BLK 5 & LTS 1 THRU 24 BLK 6 & VAC STREETS ADJ THERETO,  
LTS 13 THRU 24 BLK 1 & LTS 1 THRU 24 BLK 2, HENRY ADDN, LECLAIRE ADDN,  
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**08897-B—Jack Bubenik – City of Tulsa Parks**

**Action Requested:**

**Modification** to a previously approved site plan (BOA-08897) to replace existing identification sign for Whiteside Park. **LOCATION:** 4009 South Pittsburgh Avenue (CD 9)

**Presentation:**

**Jack Bubenik**, City of Tulsa Parks Department, 175 East 2<sup>nd</sup> Street, Tulsa, OK; the applicant was present for any questions.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **SNYDER**, the Board voted 3-0-0 (Henke, Snyder, Tidwell "aye"; no "nays"; no "abstentions"; Van De Wiele, White absent) to **APPROVE** the request for a **Modification** to a previously approved site plan (BOA-08897) to replace existing identification sign for Whiteside Park. Finding the modification to approving the conceptual plans submitted for funded items, and unfunded items conceptually approved, require no further Board of Adjustment action; finding the proposed improvements to be compatible with the neighborhood in the previous approved special



exception, such modification meets the current zoning requirements; for the following property:

**SW SE LESS N 155 & LESS ALLISON ACRES SEC 21-19-13, ALLISON ACRES, MARION GARDENS, WALTER FOSTER ADDN B17-18, WALTER FOSTER ADDN RESUB L11-12 B18, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**18394-B – Jack Buebnik – City of Tulsa Parks**

**Action Requested:**

Modification to a previously approved site plan (BOA-18394) to replace existing identification sign for Woodward Park. **LOCATION:** 2101 South Peoria Avenue (CD 4)

**Presentation:**

**Jack Bubenik**, City of Tulsa Parks Department, 175 East 2<sup>nd</sup> Street, Tulsa, OK; the applicant was present for any questions.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **TIDWELL**, the Board voted 3-0-0 (Henke, Snyder, Tidwell “aye”; no “nays”; no “abstentions”; Van De Wiele, White absent) to **APPROVE** the request for a Modification to a previously approved site plan (BOA-18394) to replace existing identification sign for Woodward Park. Finding the modification to approving the conceptual plans submitted for funded items, and unfunded items conceptually approved, require no further Board of Adjustment action; finding the proposed improvements to be compatible with the neighborhood in the previous approved special exception, such modification meets the current zoning requirements; for the following property:

**BEG NWC LT 2 TH S246 E330 N23 E121 SE ON CUR 43.98 E145.8 S109.5 E63.6 S109.5 E526.35 N470 W1218.36 POB SEC 18 19 13, GOV LT 1 OR NW NW LESS STS SEC 18 19 13 33.64ACS, TERWILLEGER HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

### **13978-A – Jack Buebnik – City of Tulsa Parks**

#### **Action Requested:**

Modification to a previously approved site plan (BOA-13978) to replace existing identification sign for Hicks Park. **LOCATION:** 3443 South Mingo Road **(CD 7)**

#### **Presentation:**

**Jack Bubenik**, City of Tulsa Parks Department, 175 East 2<sup>nd</sup> Street, Tulsa, OK; the applicant was present for any questions.

#### **Interested Parties:**

There were no interested parties present.

#### **Comments and Questions:**

None.

#### **Board Action:**

On **MOTION** of **SNYDER**, the Board voted 3-0-0 (Henke, Snyder, Tidwell “aye”; no “nays”; no “abstentions”; Van De Wiele, White absent) to **APPROVE** the request for a Modification to a previously approved site plan (BOA-13978) to replace existing identification sign for Hicks Park. Finding the modification to approving the conceptual plans submitted for funded items, and unfunded items conceptually approved, require no further Board of Adjustment action; finding the proposed improvements to be compatible with the neighborhood in the previous approved special exception, such modification meets the current zoning requirements; for the following property:

**BEG SWC SW NW N1203 E265.46 SELY1511.24 W1183 POB LESS W25 & LESS N20 TO BISHOP & LESS W40 OF N300 SEC 19 19 14, PRT S/2 NW BEG 50.08W & 11.13NW NWC E/2 SW TH NW308.02 NW315.46 TH ON LF CRV 687.31 NW181.37 E41.31 TH ON RT CRV 941.98 SE444.88 TH ON RT CRV 154.69 POB SEC 19 19 14 4.193ACS, PRT W/2 SEC BEG 1128.19N SWC E/2 SW TH N1512.91 W50.08 NW1500.09 E1621.29 S37.93 E608.52 S1907.92 SLY1877.12 W217.96 N164.62 NW436.48 SW59.45 NW646.99 POB LESS 31.36ACS IN 4 TRS & LESS STRIP 60 FOR RD SEC 19 19 14 72.66ACS, MINGO PLAZA ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

### **08842-A – Jack Buebnik – City of Tulsa Parks**

#### **Action Requested:**

Modification to a previously approved site plan (BOA-08842) to replace existing identification sign for Owen Park. **LOCATION:** 560 North Maybelle Street **(CD 4)**

#### **Presentation:**

**Jack Bubenik**, City of Tulsa Parks Department, 175 East 2<sup>nd</sup> Street, Tulsa, OK; the applicant was present for any questions.

Mr. Tidwell asked Mr. Bubenik if this is the area where the science museum is located. Mr. Bubenik answered affirmatively. Mr. Tidwell asked if the museum is affiliated with the Parks Department, and will the science museum have it's own sign? Mr. Bubenik stated the museum is a park owned building and the science museum is leasing the building from the City of Tulsa. The science museum logo will be incorporated with the City of Tulsa logo and everything will be on the same sign. There will only be one sign.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **TIDWELL**, the Board voted 3-0-0 (Henke, Snyder, Tidwell "aye"; no "nays"; no "abstentions"; Van De Wiele, White absent) to **APPROVE** the request for a **Modification** to a previously approved site plan (BOA-08842-A) to replace existing identification sign for Owen Park. Finding the modification to approving the conceptual plans submitted for funded items, and unfunded items conceptually approved, require no further Board of Adjustment action; finding the proposed improvements to be compatible with the neighborhood in the previous approved special exception, such modification meets the current zoning requirements; for the following property:

**GOV LT 4 LESS TR BEG 664.4W OF NWC SE NW TH N150 E480 S TO EXPY NE ON EXPY 264.27 S TO SECR GOV LT 4 W TO POB SEC 2 19 12, HOLLYWOOD ADDN, OBSERVATION HGTS ADDN AMD OF OWEN HOMESTEAD ADDN, PARK HILL ADDN AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**08133-A – Jack Buebnik – City of Tulsa Parks**

**Action Requested:**

**Modification** to a previously approved site plan (BOA-08133-A) to replace existing identification sign for Henthorne Park. **LOCATION:** 4825 South Quaker Avenue (CD 9)

**Presentation:**

**Jack Bubenik**, City of Tulsa Parks Department, 175 East 2<sup>nd</sup> Street, Tulsa, OK; the applicant was present for any questions.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **SNYDER**, the Board voted 3-0-0 (Henke, Snyder, Tidwell "aye"; no "nays"; no "abstentions"; Van De Wiele, White absent) to **APPROVE** the request for a **Modification** to a previously approved site plan (BOA-08133-A) to replace existing identification sign for Henthorne Park. Finding the modification to approving the conceptual plans submitted for funded items, and unfunded items conceptually approved, require no further Board of Adjustment action; finding the proposed improvements to be compatible with the neighborhood in the previous approved special exception, such modification meets the current zoning requirements; for the following property:

**PRT GOV LT 3 BEG SECR GOV LT 3 TH N611.25 W123.81 N25 W466.55 S460.54 E344.88 S176 E248.74 POB FOR PARK SEC 30 19 13 7.19ACS, BELLAIRE ACRES ADDN, BELLAIRE ACRES SECOND EXT, CEDAR GARDENS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**08841-A – Jack Buebrik – City of Tulsa Parks**

**Action Requested:**

**Modification** to a previously approved site plan (BOA-08841) to replace existing identification sign for Reed Park. **LOCATION:** 4233 South Yukon (CD 2)

**Presentation:**

**Jack Bubenik**, City of Tulsa Parks Department, 175 East 2<sup>nd</sup> Street, Tulsa, OK; the applicant was present for any questions.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **TIDWELL**, the Board voted 3-0-0 (Henke, Snyder, Tidwell "aye"; no "nays"; no "abstentions"; Van De Wiele, White absent) to **APPROVE** the request for a **Modification** to a previously approved site plan (BOA-08841) to replace existing identification sign for Reed Park. Finding the modification to approving the conceptual plans submitted for funded items, and unfunded items conceptually approved, require no further Board of Adjustment action; finding the proposed improvements to be compatible with the neighborhood in the previous approved special exception, such modification meets the current zoning requirements; for the following property:

**BEG 45W & 522.13S NEC NE TH S137.87 E10 S660 W1284.4 N1130 E595 S332.13 E680 POB SEC 27 19 13 28.034ACS, CLINTON HOME ADDN, CLINTON**

**HOMESITES, HILLDALE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**16460-A – Jack Buebnik – City of Tulsa Parks**

**Action Requested:**

Modification to a previously approved site plan (BOA-16460) to replace existing identification sign for Chamberlain Park. **LOCATION:** 4940 North Frankfort Avenue (CD 1)

**Presentation:**

**Jack Bubenik**, City of Tulsa Parks Department, 175 East 2<sup>nd</sup> Street, Tulsa, OK; the applicant was present for any questions.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **SNYDER**, the Board voted 3-0-0 (Henke, Snyder, Tidwell “aye”; no “nays”; no “abstentions”; Van De Wiele, White absent) to **APPROVE** the request for a Modification to a previously approved site plan (BOA-16460) to replace existing identification sign for Chamberlain Park. Finding the modification to approving the conceptual plans submitted for funded items, and unfunded items conceptually approved, require no further Board of Adjustment action; finding the proposed improvements to be compatible with the neighborhood in the previous approved special exception, such modification meets the current zoning requirements; for the following property:

**ALL BLKS 1 & 2, LTS 1 THRU 9 BLK 6, FAIRHILL 2ND ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**17115-A – Jack Buebnik – City of Tulsa Parks**

**Action Requested:**

Modification to a previously approved site plan (BOA-18394) to replace existing identification sign for Braden Park. **LOCATION:** 5036 East 7<sup>th</sup> Street (CD 5)

**Presentation:**

**Jack Bubenik**, City of Tulsa Parks Department, 175 East 2<sup>nd</sup> Street, Tulsa, OK; the applicant was present for any questions.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **TIDWELL**, the Board voted 3-0-0 (Henke, Snyder, Tidwell "aye"; no "nays"; no "abstentions"; Van De Wiele, White absent) to **APPROVE** the request for a **Modification** to a previously approved site plan (BOA-17115) to replace existing identification sign for Braden Park. Finding the modification to approving the conceptual plans submitted for funded items, and unfunded items conceptually approved, require no further Board of Adjustment action; finding the proposed improvements to be compatible with the neighborhood in the previous approved special exception, such modification meets the current zoning requirements; for the following property:

**LT 1 BLK 24, WHITE CITY ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**16215-A – Jack Buebnik – City of Tulsa Parks**

**Action Requested:**

**Modification** to a previously approved site plan (BOA-16215) to replace existing identification sign for Newblock/Waterworks Art Center. **LOCATION:** 1414 Charles Page Boulevard **(CD 4)**

**Presentation:**

**Jack Bubenik**, City of Tulsa Parks Department, 175 East 2<sup>nd</sup> Street, Tulsa, OK; the applicant was present for any questions.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **SNYDER**, the Board voted 3-0-0 (Henke, Snyder, Tidwell "aye"; no "nays"; no "abstentions"; Van De Wiele, White absent) to **APPROVE** the request for a **Modification** to a previously approved site plan (BOA-16215) to replace existing identification sign for Newblock/Waterworks Art Center. Finding the modification to approving the conceptual plans submitted for funded items, and unfunded items conceptually approved, require no further Board of Adjustment action; finding the proposed improvements to be compatible with the neighborhood in the previous

approved special exception, such modification meets the current zoning requirements; for the following property:

**GOV LT 7 LESS BEG 811.5NW SECR LT 7 TH NE185.8 NE275 ELY196 N493.5 TO NEC LT 7 TH W TO NWC LT 7 TH SE 1057.4 POB SEC 2 19 12 20.946ACS, LT 8 LESS RY & RD & ALL NE SE & S & W OF L DRAWN FROM NWC TO SECR LESS RD & E/2 NW SE SEC 3 19 12, CROSBIE HGTS, MITCHELL-CROSBIE ADDN, NEWBLOCK PARK ADDN AMD B1-5 BRADEN MARTIN ADDN AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21519-A – Lou Reynolds**

**Action Requested:**

Variance of the parking requirement from 16 spaces to 5 spaces (Section 1211.D); Special Exception to modify screening requirements along common lot lines within an R district for a (Use Unit 11) law office (Section 1608.A.6). **LOCATION:** 244 West 16<sup>th</sup> Street (CD 4)

Ms. Back asked Mr. Henke for a Point of Order. A gentleman from the audience asked if there is a procedural question, may it be raised now. Mr. Henke answered affirmatively and deferred to Mr. Swiney in regards to the stay motion.

Mr. Swiney stated the original proceeding for this case happened several weeks ago and at that time the Board denied a Special Exception to allow a law office in a residence. The Board of Adjustment's denial has been appealed to the District Court. There is a provision in the Zoning Code, Section 1609, Paragraph B that reads as follows:

"An appeal to the District Court stays all proceedings in furtherance of the action appealed from unless...",

and there are some other conditions that do not apply to this case. The point has been raised by the interested parties who have discussed this case with Mr. Swiney, that this stay prevents the Board of Adjustment from even considering this matter since it is a related item. Mr. Swiney has discussed this case with his colleagues in the Legal Department, and also with the Permitting Department, and he believes the stay that is mentioned in the Zoning Code does not apply to the Board of Adjustment. It does not bind the Board of Adjustment from hearing this matter. The stay, Mr. Swiney and his colleagues believe, applies to enforcement action or permitting action, i.e., if the land owner wanted to receive a Certificate of Occupancy, landscaping plan or a drainage plan. The stay applies to those items. Therefore, Mr. Swiney's advice to the Board is that the Board does have jurisdiction to hear and rule on this matter before them today.

Mr. Henke stated the Board will rely on Legal Counsel, as represented by Mr. Swiney, and proceed with this case today.

**Presentation:**

**Lou Reynolds**, 2727 East 21<sup>st</sup> Street, Tulsa, OK; Mr. Reynolds had Ms. Back display several pictures on the overhead projector to prepare the ground work for his presentation. The exhibits clearly showed the subject property is in a mixed use area. The subject house is built on two lots and has over 100 feet of frontage on 16<sup>th</sup> Street. It is proposed to keep the existing garage and mature trees to help maintain the look and feel of a home in the residential setting in which it is now located. The house is over 4,500 square feet with only three lawyers and two staff so there is no need to have 16 parking spaces in the rear yard of the subject building. Plus there is parking availability in the existing driveway and on the street. The subject property is proposed to keep the 6'-0" screening fence on the east side of the property with new plantings on the east and west sides. Mr. Reynolds asked Ms. Back to display a map designating the growth and stability areas around and near the subject property. This map displayed red dots that designated the approved Special Exceptions in the subject area for office use. The last Special Exception was approved with no objections in July of 2010 and is similar to the case being heard today. In July 2010 the Board of Adjustment found that the subject area is a mixed use area and found the Special Exception approval to be in character with what was happening in the area.

Mr. Henke asked Mr. Reynolds if he was referring to 1522 South Carson, and Mr. Reynolds answered affirmatively.

Mr. Reynolds stated that in the last hearing there was a lot said about PLANiTULSA, and in fairness a person must review PLANiTULSA as a whole picture. In the first block of PLANiTULSA is a transportation block. PLANiTULSA plans and tries to tie transportation into land use. The subject property is in between a trolley corridor as well as a frequent bus route. The subject property is very much in an area where PLANiTULSA is expecting things to progress and happen.

Mr. Reynolds then had Ms. Back display a land use map. On this map the subject property is in an area called Downtown Neighborhood, which is reflected in the staff report. In the Comprehensive Plan the definition of a Downtown Neighborhood is as follows:

"Downtown Neighborhoods are located outside but are tightly integrated with the Downtown Core. These areas are comprised of university and higher educational campuses and their attendant housing and retail districts, former warehousing and manufacturing areas that are evolving into areas where people both live and work, and medium- to high-rise mixed-use residential areas. Downtown Neighborhoods are primarily pedestrian-oriented and are well-connected to the Downtown Core via local transits. They feature parks and open space, typically at the neighborhood scale."



These are places where comprehensive plans have people live and work. Mr. Reynolds had Ms. Back display an exhibit of what the Comprehensive Plan envisions a downtown neighborhood to look like, and importantly the Comprehensive Plan addresses 12 average jobs per acre. The Comprehensive Plan is seeking employment in the area. The Downtown Core the average of jobs per acre is 91. That is 1/8 of density of jobs in downtown and will be in the subject downtown area, that is the Comprehensive Plan's projection.

Mr. Reynolds had Ms. Back project the Area of Stability and Growth map, which was the most controversial map at the last meeting. The purpose of the plan maps is that they are the component of the Comprehensive Plan that addresses the man-made geography of the area. Plan maps identify areas where the land use or intensity of uses are envisioned to change, that is an area of growth, as well as area where the land uses should be maintained and improved while maintaining their existing character, this is an area of stability. This case is projecting change in stability while maintaining the existing character of the area or improve them. That is what is proposed in this case.

This is not an area of stability or no change or an area of growth or no growth, it is an area where there is growth projected. The growth is done in accordance with the plan and the code. The Comprehensive Plan also states, "However, individual project should not be subject to the scrutiny of a comprehensive plan, but be guided by the regulations that are in place at the time the application is filed." Mr. Reynolds stated that is the zoning code.

Mr. Henke stated that what the Board of Adjustment has to do is weigh how the use is going to impact the neighborhood. Mr. Reynolds agreed.

Mr. Reynolds stated we deal with managing the plan. The Comprehensive Plan states, "The ideal for the Areas of Stability is to identify and maintain the valued character of an area while accommodating the rehabilitation." That statement is right out of the plan, and that is what the Board of Adjustment is to be doing. The plan also states, "Improvement or replacement of existing homes, and small scale infill projects." That is what the applicant is. "The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life."

The plan then talks about areas of growth and areas of stability. The areas of stability are divided into two areas. One is an established area and the other is a redevelopment area. The redevelopment area does not need to be considered for this application because it is in an established area. In established areas, the plan says the challenge is to preserve the character without preventing property owners from reinvesting in, revitalizing or rebuilding their homes. That is what is being attempted with this application.

In Tulsa Vision, that is adopted as part of the Comprehensive Plan, there are key concepts for stability and growth. The three that apply to this application are as follows:

"Character preservation, reinvestment and limited growth are the primary concerns for stable residential neighborhoods (area of stability)." This proposal is character preservation. Reinvestment and limited growth, it does not say no growth, and this proposal is very limited growth with this minimal law office use of the property.

Next, "When growth occurs in stable residential areas it should be focused in centers, in activity nodes and near transit routes." Mr. Reynolds stated that Denver and Boulder are transit routes today.

"Regulations should encourage development, yet maintain standards for appropriately located density and urban design." The focus again, is character preservation, reinvestment and limited growth. The Zoning Code states, in residential, multi-family zoning, an office use is a use permitted. The applicant is not requesting a use that is not allowed, it is permitted by Special Exception. The Special Exception is to ensure that the Board is regulating its permitted use and to encourage development in an area of stability or any other area where a Special Exception is needed.

The designation in this case is residential. The landscaping is residential. The applicant is trying to park it as residential as much as possible. The applicant has restricted and limited the use of the property to three lawyers and two employees. There is not much this use will have on this neighborhood. Mr. Reynolds respectfully requests the Board approve the Special Exception and the Variance as requested.

Mr. Tidwell asked Mr. Reynolds if there were any plans to have anyone live in the subject home. Mr. Reynolds stated the applicant plans to have just office use.

Mr. Tidwell stated that the site plan shows five parking spaces, which is one space for each employee in the proposed office use, but what about parking for clients? Mr. Reynolds stated the clients could park in the driveway or on the street. The applicant does not expect to have a lot of clients visiting his office and he is trying very hard to keep the house as residentially characterized as possible. Mr. Tidwell stated that he would like to hear what the neighbors think about adding two additional parking spaces in the rear yard because he would not like to see clients parking on the street nor does he want to see the applicant install a large parking lot either.

Mr. Henke asked the interested parties in this case if there was anyone in favor of the approval of the Special Exception and Variance request, and if so would they please raise your hand. No one raised a hand.

**Interested Parties:**

**Demetrius Bereolos**, 1929 South Cheyenne, Tulsa, OK; stated he is opposed to this request. He expressed an objection to this motion even being considered today, because he thinks the definition of a stay means exactly what it intends. This motion

should be stayed. All the previous actions Mr. Reynolds referred to on his maps with the dots occurred before PLANiTULSA and before the current Comprehensive Plan was in place. It is also interesting to note that there was a lawyer gained since the last Board of Adjustment hearing, because originally it was to be two lawyers working with staff. That may indicate encroachment along the way. The comments Mr. Reynolds made about PLANiTULSA supporting the living and working in the same area are also interesting. Unless there is a radical change in habitation he does not think Mr. Johnson plans to live and work in the same location, so all that discussion should be a moot point. Mr. Reynolds presented a very vocal presentation with a lot of points highlighted in the Comprehensive Plan, but not a lot of evidence to support the discussions that have been made. When a person drives around the area between 15<sup>th</sup> and 17<sup>th</sup> Streets on Denver it will be discovered that there are 21 houses in the two block area, and that is west of the subject location on an arterial street, that are converted houses with extra parking. At the present time there are five to seven houses that are unused or are available. Mr. Bereolos suspects that Mr. Johnson is actually working in a converted house and it speaks to the point that the neighborhood has that use already in abundance. When speaking about mixed use in the area, he feels very strongly that the focus should be on maintaining as much of the residential area as possible, because there is already a variety of uses in the area. The 21 businesses raise an interesting point, on the issues of jobs to acre ratio question, he thinks that the businesses that are located west of Denver do a wonderful job of supporting the jobs to acre ratio. The area already has that important part of the plan covered without having an additional encroachment west of Denver. In regards to the area of stability, this type of development would certainly enhance the unique quality of an older neighborhood because it involves commercial encroachment in a residential area. It does not improve or replace an existing home unless an additional parking lot behind an existing home is considered to be an improvement. The structure was rehabilitated upon sale. That portion of the area of stability argument does not carry any weight. In terms of character preservation, reinvestment and limited growth, the focus should be placed on limited growth. Very clearly, the area under discussion is of a residential nature. There is more than adequate commercial development and there is more than adequate houses converted to offices around the area. Mr. Bereolos hopes the Board will reject this request for a Variance as they did with the Special Exception. Again, he would like to have the Board stand in defense of what should be a residential area that should not be encroached upon any further.

**Glenella Doss**, 1601 South Carson, Tulsa, OK; stated that her first observation is that what is being presented to the Board today relates to the requirement. It is as if this property has already been determined as a Use Unit 11, when in fact that has been denied as of January 8<sup>th</sup> and is presently on appeal. As of January 25<sup>th</sup> the transmission of record was filed in Tulsa County District Court. It is appears clear to her after reading Title 42, Section 1609 she has a difference of opinion and she think the appropriate course is for the appeal to proceed in District Court. It is also an observation of hers that while PLANiTULSA and the Comprehensive Plan is being discussed everyone still has to observe the underlying zoning code, that has not changed totally. The subject area has an RM-2 zoning. If the corridor area along

Denver is studied the existing zoning map will show differences. There are different densities. The subject property is in RM-2. She lives in a single family zone at 16<sup>th</sup> and Carson, and when she came to the area she was committed to support the mix. The question of when is enough enough was presented on January 8<sup>th</sup> and this proposed use of the subject property is one too much. She respects and appreciates the Board's decision on January 8<sup>th</sup>. She thinks this does not even satisfy the procedures that she can find for the Board to revisit something that is under appeal and has not been determined to be the use for what is expected for the Board to decide today that relates to parking.

**Jerry Mitchell**, 240 West 16<sup>th</sup> Street, Tulsa, OK; stated he lives next door to the subject property. He has never met Mr. Johnson though he has seen on the property. His house and the property Mr. Johnson owns are the only two large houses on the south side of 16<sup>th</sup> Street that are residential. This issue is not just an issue of parking. When a person purchases a house worth a half million dollars he would not expect a law office to move in next door at 3:00 a.m. He does not care what type of office proposes to go in next door, he does not want an office next door. If an office is established next door what will it do to the value of his property?

**Brent Garrett**, 245 West 16<sup>th</sup> Street, Tulsa, OK; stated he lives directly across the street from the subject property. The subject property, 20 years ago, was divided into multiple units and rented out weekly which was not appealing to the neighborhood. The property was then purchased by Anita Bryant and returned to a single family use and in the 20 year span two other families have owned the property. There are ten children within the 300 foot radius of the subject property. The house is listed on the National Register of Historical Places. He has always enjoyed his neighborhood and he does not want an office, especially a law office, across the street from his home. Mr. Garrett had Ms. Back display a map marked with dots depicting the houses in opposition to the proposal. The purpose of a residential district is to achieve residential objective of the Comprehensive Plan. That is what was adapted by PLANiTULSA. Another purpose is to achieve a suitable environment for family life and meet the very needs of familys. The purpose of a RM-2 District is designed to permit the development and conservation of multi-family dwellings. As for the Comprehensive Plan and PLANiTULSA, adopted in July 2010, and as mentioned, all relevant cases were approved prior to the adoption. There have not been any other cases approved by the Board of Adjustment in the subject area after July 2010. Mr. Garrett had Ms. Back display several maps on the overhead projector covering the subject area, i.e., showing areas of growth and areas of stability. He welcomes growth in the designated areas and he strongly opposes those encroaching into the neighborhood. He does not agree with the Board hearing this case today because of the stay, however, the applicant is here for a Variance and Special Exception request yet there was nothing said about the screening requirements. And what is the hardship for the Variance? Nothing has been said about the hardship and he does not believe there is a hardship. In BOA-19566 in a RM-2 District and west of the subject property, in 2003 there was a Special Exception approved for parking but it was never built and never enforced. This leads to the trend of park anywhere that is convenient or wherever a space is available, regardless of what requirements are put in

place. He finds this proposal injurious to the neighborhood. He would ask the Board to deny both the Variance and the Special Exception in this, and let the District Court decide the final outcome.

**Debi Sanditen**, 1611 South Carson Avenue, Tulsa, OK; stated that Mr. Johnson or his counsel has not presented any evidence whatsoever as to the Special Exception would enhance the neighborhood or the property values. Traffic and safety issues have not been discussed either. The late hours the proposed law office may hold are also a concern because of the small children that live within the 300 foot radius.

**Bob Sober**, 2420 East 24<sup>th</sup> Street, Tulsa, OK; stated he participated in PLANiTULSA as the Chairman of the Citizens Team, and during the last of that planning he was Chairman of the Preservation Commission. Because of that he has some insight that he would like to share with the Board. The arguments on both sides of this issue have been very good and substantial. He does not believe the Comprehensive Plan suggests the arguments should be made before the Board of Adjustment. There was a small area plan prepared on this property by the O.U. Urban Design class in 2003 or 2004. It was never completed and never adopted as part of the Comprehensive Plan but it did get the residents of the area to talk and think about what they wanted for their neighborhood. The Tulsa Preservation Commission followed up, met with the neighborhood and applied for the national register. The neighborhood had to be broken into four different areas to fit the rules and regulations of the National Register. The subject property is in the Stonebraker Heights neighborhood that is on the National Register. In 2009 the Economic Development Commission for the City of Tulsa hired a group to prepare a plan for Housing Potential and Market Demand Study for downtown Tulsa urban neighborhoods. It divided the subject area into five districts and one of the districts included the subject property. The goal was to determine what kind of market could be expected in a ten year span regarding growth. At that this type of infill was a hot topic. At that time Tulsa was experiencing budget problems which were blamed on the decrease of population in the center of Tulsa. That was one of the goals of the plan, infill development was needed and needed to increase the density near the downtown area. This study suggested that about 4,000 housing units, both rental and for sale, could be supported to be built in this subject between 2010 and 2020. A few months after the study TMAPC studied the map of areas of stability and areas of change when the Tulsa Preservation Commission made a request. That request was that all neighborhoods that are inside of nationally registered districts be shown as areas of stability. That request was granted and that is what the map reflects. At that time the Tulsa Preservation Commission also asked how these areas were to be developed, because some of these areas include the best development opportunities in the City of Tulsa. In June 2010, one month before the PLANiTULSA was adopted, the Preservation Commission sent a letter to Mayor Bartlett which has been referred to.

Mr. Henke asked Mr. Sober if he had an additional copy of that letter. Mr. Sober presented the Board a copy, which was entered as an exhibit, and Mr. Sober read to the Board.

This is not just about preserving Tulsa's past but also about creating Tulsa's future. In July 2010, the Comprehensive Plan was adopted with unanimous approval of both TMAPC and City Council. The Comprehensive Plan calls for four chapters. Two chapters were present and approved; a draft of the third chapter was present but not part of the approval; and the fourth chapter was not started. The chapters included were a vision, the plan documents, the strategic implementation plan which was in draft form, and the monitoring plan. The strategic implementation plan was fully the responsibility of the Mayor to proceed with. The monitoring plan has never been completed. PLANiTULSA is not meant to be a static document. The world changes and that was the purpose of the monitoring plan. The solution that is proposed inside of PLANiTULSA for making this kind of decision is the small area plan. It fully acknowledges that there are going to be different opinions inside of neighborhoods, and those are amplified as they include residential and commercial uses. Those conflicts in Tulsa have been resolved in meetings similar to this one. Those meetings are time consuming, expensive, and always result in one side not being happy. There was a part of the Comprehensive Plan that was adopted as guiding principles. Under the planning process the guiding principle is to have the City planning and decision making a transparent and inclusive process. The residents have a voice in solving their communities problems and are part of planning for the future. That is intended to have a process that is fair, easily understood and problems were to be solved under a small area plan. The Preservation Commission recognized the potential of this area over all the other areas that are on the national register, and made the recommendation to proceed with a small area plan that provides resolution to problems and guidance for the people who have been charged with making decisions, i.e., decisions that the Mayor makes. It has been 2 ½ years and the small area plan has not been budgeted. Mr. Sober recommends and encourages the Board to deny the proposal on the subject property because the Board of Adjustment has not been provided the necessary tools to make this decision. Needs must be resolved in a way that does not continue to foster conflict but gives the people of Tulsa the opportunity to feel they are part of a process that listens.

**Chip Atkins**, 1638 East 17<sup>th</sup> Place, Tulsa, OK; stated that the applicant has not presented a hardship. Mr. Atkins stated that Mr. Reynolds presented great information about the plan but there was no hardship mentioned. Mr. Johnson owns property at 17<sup>th</sup> Place and Peoria which is zoned RM-2, which has Special Exceptions on it and have had for eight years. He knew what to expect when he purchased the subject property. Mr. Atkins thinks that is a self-imposed hardship because he knew what he was getting into. There is a lot of history, back to 1970, when the property went from RS-3 to RM-2 zoning. This is a residential neighborhood where people live. This is a quality of life issue. Mr. Atkins lives in the historic district of Swan Lake and he understands the importance of today's hearing. He looks out his front door at commercial buildings every day. He understands how important encroachment into a neighborhood can be and how he has fought against encroachment himself. He has even bought properties to keep such encroachment from happening and help save the neighborhood. If the Board were to take a survey of the people in Stonebraker Heights they would find that some of them own two or more houses in the subject area to

prevent more deterioration and to promote residential housing. That is what this neighborhood is, it is residential not a commercial area.

**Glenella Doss** came forward again and stated that she would like to express an additional comment. If the Board were to take note of Table 2, Accessory Uses, page 4-4, law offices are not one of the permitted uses. Also, Section 404, Special Exception Uses in the Residential District, Part B lists "Home Accessory" which does not list law offices either.

**Jane Haliwell**, 1618 South Cheyenne, Tulsa, OK; stated there is a description of the Planning Commission and the Board of Adjustment. That description states it is to ensure the value of the properties that surround the subject property.

**Rebuttal:**

Mr. Reynolds came forward and deferred to Mr. Scott Johnson.

**Scott Johnson**, 1303 East 17<sup>th</sup> Place, Tulsa, OK; stated that the only reason he was not present at the first meeting is because Counsel requested him not to be present. He does think it is important the record that is before the Board is accurate. First of all, Mr. Mitchell has spoke with Mr. Johnson more than once and they met before the property was purchased. Most recently, the neighborhood association had a meeting to discuss his issue, which he was not invited to attend but he did leave his information with Lori Cain, Mr. Garrett, Mr. Shears and many people. He welcomed the opportunity to speak with the neighborhood association and the residents so he could present his plan for the subject property. How he found out about the meeting held by the residents was by going to the website for Preserve Midtown Tulsa. The website reflected that the meeting was to be held at 1924 South Cheyenne but that address does not exist. The address that the meeting was be held at was 1929 South Cheyenne. While looking for the meeting address he happened to see Mr. Mitchell and he stopped him by asking him where the neighborhood association meeting was being held. Mr. Mitchell stated that the meeting had just adjourned. Mr. Johnson stated that he posted on the Preserve Midtown Tulsa website that he would be happy to meet with any individual or groups to discuss the issues regarding the subject property. Mr. Johnson stated that the statement of three attorneys, that was made today, is a maximum use. There will not be more than three attorneys seen in that office. He practice is divorce work and an office cannot house more than three attorneys because conflicts arise. He does not want to house more attorneys than that. Currently his office does only have two attorneys and he cannot tell the Board when and if three attorneys would occur. One of the arguments he finds most troubling, is that the Riverview Neighborhood Association would not allow him to speak and he was told by the Vice President of the Riverview Neighborhood Association that it was actually Lori Cain and her husband that would not allow it. The meetings were not neighborhood meetings but special meetings being organized by a few people to address the issue and not invite him. Those people are a small minority of people that are in the subject area. The subject property is a beautiful piece of property and that is why he desires to have it as his law office. Mr. Johnson stated that one of his goals is the garage, that will painstakingly be remodeled, has no

electric, no sheet rock, and has been burned out in part. Across the street is a piece of property where the roof is dilapidated and falling in. The property is in severe need of repair. Mr. Johnson stated that he has spent a great deal of money into restoring the subject property. For example, the fireplace was not as majestic as it should be for this property so he had marble installed around the fireplace. He has ordered doors for a room that he thought needed to be separated from another area. He ordered the doors to match the existing framing. He has ordered a glass handle at Garbe's to match the glass handles in the reception area or what was the living area. He has maintained the integrity of the property to make sure it's value was maintained and increased. Mr. Johnson stated that his office has low volume, i.e., yesterday there was one client and today there have been none. Therefore, the traffic impact would not be large. Mr. Johnson stated that Mr. Garrett provided incorrect information regarding Mr. Shears Special Exception because it was approved in July 2010 not June. Mr. Johnson asked Mr. Garrett why he objected to his proposed project, but yet did not object to Mr. Shears request. Mr. Garrett told Mr. Johnson that Mr. Shears raised his children here, I know him and I don't know you. Mr. Shears is further into the neighborhood than the subject property and he always has three to five cars parked on the street plus has the garage apartment rented as well. Mr. Johnson stated that he felt these items needed to be mentioned to the Board, and he has no intent to change the character and/or nature of the subject property. His practice has been in his current office for six plus years. It has no sign, no indication that the structure is a law office, and from the telephone calls he receives people believe it to be a residence. The public will believe the same thing and think the look and appearance of the subject property to be a residence also.

Mr. Reynolds came forward and stated that he thought he had addressed the screening. The screening will be provided by a six foot screening fence on the east and south boundaries. There will be seven Maple trees planted on the east boundary and there will be redtipped Fatinas planted along the west boundary to where it abutts the RM property but will be encapsulated with the six foot fence. There will be very nice landscaping to buffer the property. The hardship is that there will only be five employees in the building and it is 4,550 square foot building. There is no need for 15 or 16 parking spaces even there is the room to have them. The hardship is that the building will not be used to it's full capacity. It has not been refuted, the Comprehensive Plan is not the issue, it is compliance with the Zoning Code and the requested relief does comply with the Zoning Code in particulars. Mr. Reynolds would ask the Board to approve the request.

**Comments and Questions:**

Ms. Snyder stated that she cannot vote to approve this request because she feels that she would be approving this request for something that has not been approved.

Mr. Tidwell stated that he appreciates Mr. Reynolds arguments but he cannot change his opinion. This case has been appealed to the District Court and he thinks this case should run its course.



**Board Action:**

On **MOTION** of **TIDWELL**, the Board voted 3-0-0 (Henke, Snyder, Tidwell "aye"; no "nays"; no "abstentions"; Van De Wiele, White absent) to **DENY** the request for a **Variance** of the parking requirement from 16 spaces to 5 spaces (Section 1211.D); **Special Exception** to modify screening requirements along common lot lines within an R district for a (Use Unit 11) law office (Section 1608.A.6); for the following property:

**LTS 9 & 10 LESS E6 LT 9 BLK 6, STONEBRAKER HGTS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**OTHER BUSINESS**

None.

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**NEW BUSINESS**

None.

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**BOARD MEMBER COMMENTS**

None.

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There being no further business, the meeting adjourned at 3:18 p.m.

Date approved: \_\_\_\_\_

*3/12/13*

*Frank X. Henke, Jr.*

Chair