

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1090
Tuesday, March 26, 2013, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Henke, Chair Snyder Tidwell, Secretary 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, March 21, 2013, at 10:22 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; Tidwell "abstaining"; none absent) to **APPROVE** the **Minutes** of the March 12, 2013 Board of Adjustment meeting (No. 1089).

UNFINISHED 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:

No presentation was made. The applicant has requested a continuance to April 23, 2013 due to right-of-way realignment coordination with the City of Tulsa.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none 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 April 23, 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**

NEW BUSINESS

21546—Wallace Engineering

Action Requested:

Special Exception to allow an office use (Use Unit 11) in a RM-2 district (Section 401, Table 1); Variance of required parking spaces from 22 spaces to 18 spaces (Section 1211.D); Special Exception to allow required off-street parking on a lot other than the lot containing the principal use (Section 1301.D). **LOCATION:** 1306 South Denver Avenue West **(CD 4)**

Presentation:

No presentation was made. The applicant has requested a continuance to April 9, 2013 due to a site plan change.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a **Special Exception** to allow an office use (Use Unit 11) in a RM-2 district (Section 401, Table 1); **Variance** of required parking spaces from 22 spaces to 18 spaces (Section 1211.D); **Special Exception** to allow required off-street parking on a lot other than the lot containing the principal use (Section 1301.D), to the Board of Adjustment meeting on April 9, 2013; for the following property:

**LT 2 LESS BEG NECR LT 2 TH W10.40 SELY50.06 E7.80 N50 POB BLK 3, T T T
ADDN AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

21547—James Healy

Action Requested:

Variance to reduce the required width of a landscape area extending the entirety of abutting street right-of-way from 5 feet to 3.5 feet (Section 1002.A.2). **LOCATION:** 4001 East 101st Street (CD 8)

Presentation:

No presentation was made. The applicant has applied for an Alternative Compliance Landscape Plan and has withdrawn this case.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required.

OTHER BUSINESS

REQUEST FOR REFUND

21547—James Healy

Variance to reduce the required width of a landscape area extending the entirety of abutting street right-of-way from 5 feet to 3.5 feet (Section 1002.A.2).

LOCATION: 4001 East 101st Street (CD 8)

The applicant has withdrawn this case, as stated previously, and is requesting a \$643.00 refund.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a refund of \$643.00.

Request for Tulsa Zoning Code Interpretation: 1221.C.2.b and Definition

1221.C.2 Title 42 § C.2. Flashing signs, digital signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs or signs with movement shall be subject to the following limitations.

- a. No such sign shall be located within fifty (50) feet of the driving surface of a signalized intersection. The fifty (50) feet shall be measured in a straight line from the nearest point on a sign structure to the nearest point of the signalized intersection.
- b. No such sign shall be located within twenty (20) feet of the driving surface of a street. The twenty (20) feet shall be measured in a straight line from the nearest point on a sign structure to the nearest point of the street curb, or edge of the traveled roadway marked or understood as such.

Chapter 18 Definitions:

Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, and includes buildings, parking areas, walks, fences, and signs.

QUESTION:

It has been Permitting Services' practice to utilize a horizontal plan measurement of 20 feet in the determination of 1221.C.2.b measured from the nearest point of a sign structure on the ground or "plan-projected" on the ground to the driving surface or curb. [Section 1221.C.2.a is similarly interpreted.]

Does the language support the previous 20 foot horizontal measurement or can the 20 feet be measured as an arc from zero to one hundred eighty degrees centered from the curb, up to the sign?

In addition, if a sign is mounted on a building or a pole, would either component qualify as the sign structure that shall also be outside the 20 feet limit? In other words, what technically is the "point" on a sign structure?

COMMENTARY:

If the 20 feet may be measured as an arc, it is conceivable that signs may be above a paved street. If the 20 feet is strictly a horizontal measure, downtown buildings often lack the 20 feet distance to set a pole. If the sign is mounted on the building, and the building is considered a part of the sign structure just like a pole holding up a sign, then buildings at zero lot line would not be able to install this class of signs.

Ms. Back informed the Board that the City has withdrawn this request for interpretation permanently from the Board's agenda, due to a Zoning Code rewrite in progress.

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UNFINISHED BUSINESS

21536—Jim Smith

Action Requested:

Special Exception to allow for a Mini Self-Storage (Use Unit 16) in an RM-2 District (Section 401, Table 1). **LOCATION:** 1313 East 62nd Street South **(CD 2)**

Presentation:

Jim Smith, U-Haul Company, 504 East Archer, Tulsa, OK; stated he represents Americo and they have drawn a new site plan per the Board's request at a previous meeting, which is included in the Board's agenda packet today. Mr. Smith stated that he has met with many of the surrounding residents and has presented a petition signed by several of the residents showing they are now in favor of the proposed project.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a **Special Exception** to allow for a Mini Self-Storage (Use Unit 16) in an RM-2 District (Section 401, Table 1). This approval will be per plan 2.17 as submitted today on March 26, 2013. 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:

E146 W316 LTS 7 & 8 BLK 1, AMBASSADOR MANOR RSB PT PEORIA PLAZA & VALLEY VIEW & VALLEY CTR, PEORIA PLAZA RESUB L2 B1, VALLEY VIEW ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

21543—Mark Martin

Action Requested:

Variance of the building setback from the centerline of an abutting arterial street from 100 feet to 75 feet in the CS District to permit an ice kiosk (Section 703, Table 2).

LOCATION: 2120 South Sheridan Road East (Actually facing 6230 East 21st Street) (CD 5)

Presentation:

Mark Martin, 6161 West 820 Road, Ft. Gibson, OK; stated this is an unmanned automated ice kiosk that will have several automated button options. The kiosk will dispense large and small bags of ice, and it will dispense bulk ice into a ice chest or cooler without the need for a bag. The kiosk will also dispense water. The reason for the requested setback of 75 feet is because there is a driveway entrance near the proposed kiosk location, and it is the only ingress and egress for the property. If the kiosk were to be placed 100 feet back it would obstruct the traffic flow.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Variance of the building setback from the centerline of an abutting arterial street from 100 feet to 75 feet in the CS District to permit an ice kiosk (Section 703, Table 2). This approval will be per conceptual plan 4.6. Finding that the layout of the subject parking lot and the configuration of the entrance and the curbing layout around the kiosk will create a hardship to locating it 100 feet from the centerline. 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 50W & 250S NEC NE TH S1012.56 W630.88 N1211.54 E440 S200 E200 POB SEC 15 19 13 16.76ACS, MARY FRANCES ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21544—Jennifer Andres

Action Requested:

Special Exception to permit an event center (Use Unit 5) in an IL district (Section 901). **LOCATION:** 4960 South 83rd Avenue East (Tenant space 4955 South Memorial Drive, #F) (CD 3)

Presentation:

Jennifer Andres, 8922 East 60th Street, Tulsa, OK; stated that she had been operating a restaurant out of this space and she has now converted the space to a special event center. She converted the space to a special event center about 1 ½ years ago, and did not know that she would need to obtain a special exception to do so. The center is booked for private parties, i.e., birthday parties. The parties are usually in the evening and on a weekend, starting around 5:00 P.M. until 2:00 A.M. Occasionally there will be a private meeting held in the center during the week.

Mr. White asked Ms. Andres if alcoholic beverages were served during the events or meetings. Ms. Andres stated that the clients provide their own beverages; she does not supply or sell them.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to permit an event center (Use Unit 5) in an IL district (Section 901). This approval will be for tenant space 4955 South Memorial Drive, Suite F. The hours of operation will be no later than 2:00 A.M., and will be for a period of no more than three years from today's date of March 26, 2013. 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:

LTS 6 8 & 9 LESS W110 S150 LT 6 BLK 4, SECOND RESEARCH & DEVELOPMENT CTR RESUB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21545—Lowell Peterson

Action Requested:

Variance to allow a 2.25 foot x 7.66 foot electronic message center in an AG district (Section 302.B.2.a); Variance to allow an electronic message center within 200 feet of a residential development area boundary line (Section 1221.C.2.c). **LOCATION:** 840 West 81st Street (CD 2)

Presentation:

Lowell Peterson, Attorney, P. O. Box 70, Glenpool, OK; stated he is representing Rev. Jim Thornton. No presentation was made, but the applicant's representative was available for questions.

Interested Parties:

Wayne Allen, 728 West 79th Street, Tulsa, OK; stated he is representing five homeowners that live in the same block. All the homeowners purchased their property specifically to that location so that they would abutt two water retention ponds with lighted fountains and a beautiful view. All these homeowners feel that a digital sign will detract from the beauty of the area and destroy the view. Mr. Allen stated that he will be able to see the proposed digital sign from his living room window.

Mr. Van De Wiele asked Mr. Allen what side of the detention pond the houses are located. Mr. Allen stated the houses are located on the north side of the detention ponds.

Mr. White asked Mr. Allen if he was aware that the sign would be facing east and west. Mr. Allen answered affirmatively.

Mr. Allen stated that he and the other homeowners do not oppose the church having a sign, but they do oppose a digital sign.

Mr. Van De Wiele asked Mr. Allen if the residents would oppose the digital sign if the hours of operation were limited. Mr. Allen stated that limited hours would be good; because he currently has the understanding that the sign would be operational until 10:00 or 10:30 p.m. and thinks that is too late.

Rebuttal:

Mr. Peterson returned to the podium. His client would be agreeable to have the sign go off at either 10:00 or 10:30 p.m. and then come back on at 7:00 a.m. None of the residents of the Stonebrook neighborhood are within the 300 foot notice radius. Mr. Peterson stated that he took it upon himself to notify the Stonebrook Home Owner's Association, because he and his client wanted to take their views of the proposed project into consideration. The homes that Mr. Allen is representing is substantially beyond 300 feet and even beyond the 200 feet. Not only are the homes being represented by Mr. Allen outside the 300 feet, they are also north of two retention ponds that will never be developed into homes. The proposed sign is only a total of 6'-3" tall with the digital portion being 2'-3" tall x 7'-8" wide. This proposed sign will be replacing a previously existing sign that was demolished so a new neighboring housing development, Hyde Park to the west, could install utility lines along the frontage of the church. The previous sign was larger because it was 6'-4", which is 24 square feet, with constant internal fluorescent lighting. The new sign is only 17.235 square feet and would comply with all sign codes. The proposed sign will be set back 80 feet from a driving surface and more than 50 feet from the residential boundary. The sign will not detract from the neighborhood because to the west of the proposed sign site there are several digital signs. There is a Kum-N-Go and a Life Church among some of the signs.

Mr. Van De Wiele asked what the need was to have the sign to stay on until 10:00 or 10:30 at night. Mr. Peterson stated that the sign will be used to convey information to the public that is driving by that late in the evening.

Mr. Henke asked Mr. Peterson what the hardship for the property is, because he does not see it. Mr. Henke stated that he understands the reason the neighbors are concerned about a digital sign, because signs in the past have been approved by the Board with conditions and the conditions are not adhered to.

Mr. Peterson stated that part of the hardship is the fact that the previous sign was destroyed. Currently there is a wooden sign in place and the proposed sign would be installed in the same place as the sign that has been destroyed. Between the concerned neighborhood there is a large retention pond and a large privacy fence, and with the size of the sign Mr. Peterson stated that he does not anticipate the sign to be visible to the residences.

Jim Thornton, 838 West 81st Street, Tulsa, OK; stated that he is the lead pastor for the Tulsa Hills Church and he lives next door to the church. The Tulsa Hills area is one of

the fastest growing areas in Tulsa, and anyone that purchased a home in Stonebrook would have done so knowing of the growth and development. The church wants to be an asset to the community, and has gone to the extra expense of a decorative stone base to the proposed sign. There is a considerable amount of traffic in the area of the church and parishoners will be leaving services consistently after 8:00 P.M. so he would like to see the message center lit and working until 10:00 P.M. but at least until 9:00 P.M. If the Board is concerned over the light reflecting into a resident's backyard, that was happening long before Stonebrook was developed into a neighborhood. The church is willing to work with the Board on the hours of operation for the sign.

Ms. Snyder asked Mr. Peterson if the sign were to be a moving digital sign. Mr. Peterson stated no that it will be a static signalized message sign with scrolling capabilities. According to the sign regulations there must be an eight second dwell with no less than a one second transition to the next item. There will not be a continuous message scrolling creating a storyboard effect.

Mr. Henke asked how often the message center would change. Mr. Thornton came forward and stated that a simple time and temperature message would be displayed for the community along with any events that may be taking place at the church with a short message of encouragement. Mr. Thornton also informed the Board that since the drawing of the proposed sign was made the message center has been changed from red letters to amber letters, which he has been told is easier to read and softer on the eyes.

Mr. Henke asked Mr. Allen to come forward and state a time for the sign to be turned off that would be acceptable to him and the neighbors he represents. Mr. Allen stated that a turn off time of 8:00 P.M. would be acceptable to him and the neighbors he represents.

Comments and Questions:

Mr. White stated that the light from the developing Tulsa Hills is going to keep becoming brighter and will soon be the issue of the area to which the residents will have no control as opposed to this church sign. He could vote for a 10:00 P.M. curfew.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to allow a 2.25 foot x 7.66 foot electronic message center in an AG district (Section 302.B.2.a); Variance to allow an electronic message center within 200 feet of a residential development area boundary line (Section 1221.C.2.c). This approval is subject to the conceptual plan submitted today regarding size, design and location of the sign. The approval will have the further limitation that the electronic message center portion of the sign hours of operation to be 7:00 A.M. until 8:00 P.M. Finding that the sign will be used for community messages and the recent developments have caused the removable and need for replacement of the existing 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 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:

**BEG 1822.25W NEC NE TH S436 W269.75 N436 E269.75 POB LESS BEG 1966.77W
NEC NE TH S32 W42.31 N32 E42.31 TO POB SEC 14 18 12
2.671ACS,LIFECHURCH.TV JENKS ADDITION, STONEBROOKE ESTATES, CITY
OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

16011-B—Wallace Engineering

Action Requested:

Modification to a previously approved site plan (BOA-16011-A) to construct a 14,000 square foot building addition with site modifications. **LOCATION:** 10100 East 61st Street (CD 7)

Presentation:

Jim Beach, Wallace Engineering, 200 East Brady, Tulsa, OK; stated this application is for an addition of an Administration expansion for the Union Schools 6th and 7th grade center. If this proposal is approved today, it will remove the existing circular drive and replace it with decorative landscaping. The proposed lighting will be low level lights that will 10 or 12 feet tall and are similar to yard lights or pedestrian lights within the courtyard.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Modification to a previously approved site plan (BOA-16011-A) to construct a 14,000 square foot building addition with site modifications. This approval is per conceptual site plan 8.15 and 8.16; for the following property:

**LT 1 BLK 1, COMMERCE CENTER RSB PT L4-6 B1 UNION GARDENS, RE-UNION,
UNION GARDENS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

21549—Winkelman & Associates

Action Requested:

Variance to reduce the required parking from 494 spaces to 487 spaces in the CS zone for the addition of a CVS Pharmacy to the shopping center (Section 1214.D).

LOCATION: 5102 South Memorial Drive, 7990 East 51st Street South, 7950 East 51st Street South, 7846 East 51st Street South **(CD 7)**

Presentation:

Michael Doggett, 6750 Hillcrest Plaza Drive, #325, Dallas, TX; stated he is a Civil Engineer and is representing CVS Pharmacy's interest. CVS plans to purchase the gas station that is currently located on the corner and raze the site. CVS Pharmacy also plans to purchase a portion of the Food Pyramid parking lot. This action will reduce the entire center's parking by seven spaces. Currently there is a parking agreement between the Steak Stuffers, Food Pyramid and Office Depot, and the parking agreement will be rewritten incorporating CVS Pharmacy into the agreement.

Mr. Henke asked Mr. Doggett what the hours of operation for the CVS Pharmacy are. Mr. Doggett stated that CVS will operate 24 hours, seven days a week.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to reduce the required parking from 494 spaces to 487 spaces in the CS zone for the addition of a CVS Pharmacy to the shopping center (Section 1214.D). This approval is subject to conceptual plan 10.13. The Board has found that the shopping center in question has sufficient parking for the various uses in the center. The hours of operation of the various tenants allows for this very minor reduction in total number of parking spaces. 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 10W NEC LT 1 TH S200 W200 N TO NL LT 1 E POB BLK 13, PRT LT 1 BEG 723.82E NWC LT 1 TH E141 S200 E210 S415.15 W299.68 NW159.42 N304.51 E106 N302 POB LESS E10 THEREOF FOR ST BLK 13 4.64AC, PRT LT 1 BEG 331E NWC LT 1 TH E392.82 S302 W106 S304.51 NWLY293.34 N339.13 E6 N250 POB

LESS BEG 331E NWC LT 1 TH E135 S150 W135 N150 POB BLK 13, PRT LT 1 BEG
331E NWC LT 1 TH E135 S150 W135 N150 POB BLK 13, SOUTHERN PLAZA B8-15,
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

No further business to be conducted under this heading.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 2:05 p.m.

Date approved: 4/9/13
Frank X. H. [Signature]
Chair