

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1091
Tuesday, April 9, 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 Bates Sparger	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, April 4, 2013, at 9:27 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.

Mr. Bates read the rules and procedures for the Board of Adjustment Public Hearing.

MINUTES

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 **Minutes** of the March 26, 2013 Board of Adjustment meeting (No. 1090).

UNFINISHED BUSINESS

21541—Robert Thomas

Action Requested:

Variance of the north side yard setback from 5 feet to 2 feet 5.5 inches in the RS-3 District (Section 403.A. Table 3). **LOCATION:** 1315 North Atlanta Avenue East (CD 3)

Presentation:

No presentation was made. Staff has requested a continuance to April 23, 2013 due to incorrect advertising. The notice was mailed stating the side yard setback to be from 5 feet to 2 feet 5.5 inches and should have stated the side yard setback to be from 5 feet to 1 foot 9 ¾ inches.

Interested Parties:

None.

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 north side yard setback from 5 feet to 2 feet 5.5 inches in the RS-3 District (Section 403.A. Table 3), due to incorrect advertising, to the Board of Adjustment meeting on April 23, 2013; for the following property:

LT 15 BLK 5, BELLEVUE HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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OTHER BUSINESS

21554—Roy Johnsen

Action Requested:

Special Exception to allow expansion of parking (Section 1608.18); Special Exception to modify screening fence requirement (Section 212); Variance of the 5 feet wide landscaping requirement (Section 1002.A.3); Variance of the setback for parking lot from an adjoining arterial street from 50 feet to 44 feet (Section 1302.B, Table 1). **LOCATION:** 1400 North Gilcrease Museum Road West

The applicant has withdrawn this case and is requesting a \$790.00 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 \$790.00.

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UNFINISHED BUSINESS

21539—Marcus Makar

Action Requested:

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

Presentation:

John Eagleton, 2530 East 71st Street, Suite L, Tulsa, OK; stated he is an attorney representing Mr. Marcus Makar. Mr. Makar purchased the subject property in 2012 with the plans of installing a trapeze in the back yard. Mr. Eagleton presented the Board with a picture of a trapeze that Mr. Makar had rigged. Mr. Eagleton stated that the back yard of the subject property is sufficiently wide and sufficiently deep for the trapeze rig to be installed. There is parking in front of the house and parking on the existing driveway. Mr. Eagleton stated that Mr. Reynolds, a next door neighbor, has allowed four spaces on his property for the public to use as parking. Mr. Eagleton presented the Board with an aerial view of South Boston Avenue taken approximately 11:00 A.M., and there are only four cars parked in a three block area of South Boston Avenue. Mr. Eagleton stated there are concerns from some people in regards to the electrical wires and Mr. Makar’s trapeze. The pillars were installed by Mr. Makar before he realized he could not install a trapeze in a residential back yard. Mr. Eagleton and Mr. Makar went to the City Council and obtained a zoning change to CS zoning. At this point in time he is waiting for other approvals to start the trapeze business.

Mr. Van De Wiele asked Mr. Eagleton if the picture of the trapeze rigging presented to the Board is the same rigging as Mr. Makar’s. Mr. Eagleton stated that it is the one in the same rigging. The poles are different type poles than that presented in the picture but they are the same size and width; the poles are 34’-0” tall. The poles that are closest to the electrical wires in the back yard of the subject property never have the trapeze participant on them. Those poles are there solely to hold the webbing or the containment place to keep people from falling. Once pulleys are installed on the top of the poles, netting will be raised or lowered using wires. So nobody ever gets on those poles near the electrical wires except for the one time when the pulleys are being

installed. Netting is designed at a 45 degree angle so that when people fall off the trapeze they land toward the bottom of the netting. Mr. Eagleton stated that he has been advised that it is very rare for a trapeze artist, once they fall, to land anywhere near the halfway mark up the netting. He has been advised by Mr. Makar that a world class athlete that was deliberately attempting to fling himself up to the top of the netting could not reach the top of the net. The trapeze itself is safer than a back yard trampoline. The trapeze provides a benefit to the people because it is an enjoyable recreational activity that creates exercise and core body strength. Mr. Makar has been enjoying the trapeze for several years and he can grab a rope, place his legs in the pike position, and climb up the rope hand-over-hand for as far as he wants to go. Mr. Makar has displayed that the trapeze creates excellent core muscle tissue. Mr. Makar also knows there is a market for the trapeze. At the City Council meeting there were more than 30 interested parties present that are in support of the trapeze. All of the people that currently live in the surrounding neighborhood that he has spoken to are in support of the trapeze. There was one person that was not in support of the trapeze and he has moved away. The businesses that are in close proximity are in support of the trapeze business. The subject property is in a downtown neighborhood that abuts Boulder Park and it is a perfect location for a trapeze school. Mr. Makar will make reasonable accommodations to make the trapeze school work for everybody.

Mr. Swiney asked Mr. Eagleton where the picture of the trapeze rigging taken that was presented to the Board. Mr. Eagleton stated that picture was taken in either the New Mexico or the Arizona desert; it was not taken in Tulsa. Mr. Swiney asked Mr. Eagleton if Mr. Makar's trapeze would be the same design. Mr. Eagleton stated that it would be the exact same rigging. Mr. Makar's poles, the four poles on the extremity, are different. Mr. Makar must use stronger telephone poles because he cannot use guy-wires on the subject property.

Mr. Van De Wiele stated that in the Board's agenda packet there was a note that the Oklahoma Department of Labor would require Mr. Makar to carry a million dollar insurance policy. He asked Mr. Eagleton about the insurance policy that would be carried by Mr. Makar. Mr. Eagleton stated that he was unaware of that stipulation but if that is the requirement of the state then Mr. Makar will comply with it.

Mr. Van De Wiele asked Mr. Eagleton to explain the guy-wires again as shown in the picture presented to the Board. The guy-wires that are shown in the picture will not be on Mr. Makar's trapeze. The pillars on the four corners are made from thick telephone poles as opposed to flimsy telephone poles. The poles are set into the ground ten feet and they are 34 feet tall. There will not be a trapeze on the far western pillars of Mr. Makar's rigging.

Mr. Tidwell asked Mr. Eagleton how far away from the PSO power lines is the trapeze? Mr. Eagleton stated that the pillars are currently 11'-0" from the outer most wire. What is not known is when the rigging is installed how much inward torque of the pillars will happen due to the tension on the rigging.

Mr. Tidwell asked Mr. Eagleton what the proposed hours of operation would be. Mr. Eagleton stated that it is planned not to go beyond 10:30 P.M.

Mr. Swiney stated that he was the one who contacted the Department of Labor and spoke to Mr. McGuiness at that office. The Department of Labor believes that the trapeze use would be considered an amusement ride which would be under their jurisdiction. Mr. McGuiness responded to Mr. Swiney with an e-mail and Mr. Swiney stated that he would provide Mr. Eagleton with a copy of that e-mail.

Ms. Snyder asked Mr. Eagleton to clarify the map that he had provided to the Board about the neighbors that were in agreement with the installation of the trapeze, because she does not see any marking for the resident that has moved away but was not in favor of the trapeze. Mr. Eagleton stated that map signifies everyone that Mr. Makar was able to speak to about the trapeze. If the resident did not answer the door when the neighborhood was being canvassed the map was marked as "no information" and the "does not care" designation means it was taken as the resident was in support of Mr. Makar's efforts.

Mr. Van De Wiele asked Mr. Eagleton how Mr. Makar is going to keep a person from getting onto the trapeze at 3:00 A.M. Mr. Eagleton stated the rigging is all hung by pulleys. When the trapeze school is not open the netting will come down, folded, and locked up in storage. The trapeze itself is so high in the air no one can just jump up and get on it. It is no more dangerous than a flagpole. The trapeze is also in a private back yard that enclosed with a fence. So a person would have to trespass onto private property in a dark area and abuse the equipment, but the property cannot be insulated from everyone.

Mr. Tidwell asked Mr. Eagleton if the netting was left up all the time. Mr. Eagleton stated that the netting is biodegradable so it does come down. The netting is used then it comes down, because if it does get wet it will become problematic.

Marcus Maker, 1207 East 3rd Street, Tulsa, OK; stated that he likens the trapeze to a trampoline with no bed on it, once the netting is down it is just some poles therefore no fun.

Mr. White asked Mr. Eagleton if there were plans for the fence on the west side of the property so easy access could not be gained from the park. Mr. Makar came forward and stated yes, he plans to install a gate for access to the park.

Interested Parties:

Stephen Schuller, 1100 OneOk Plaza, 100 West 5th St., Tulsa, OK; he is before the Board today as an attorney representing several of the residents in the same block who do not support the trapeze facility. These residents believe that the trapeze facility will be injurious to the neighborhood as well as detrimental to the public welfare and hope this request is denied. The entire surrounding area consists of low intensity residences and office uses. The proposed outdoor trapeze facility is wholly inconsistent with the

residential and small office character of the neighborhood. The applicant has expressed an interest in opening up his property to the park, and by doing so would create a pedestrian thoroughfare from the park into the subject property and then on to Boston Avenue and the entire area. That is the kind of excessive pedestrian traffic the neighbors do not want to see. The proposed trapeze will also create excessive traffic on Boston Avenue, especially if the customers utilize street parking while visiting the proposed trapeze school. The application is for the entire lot, Lot 20, for the trapeze facility. The poles and netting are in the rear of the property while the existing building is proposed to house offices, a waiting area, and as storage for the equipment. The zoning code's parking requirements, which are applicable to the subject property for this use for the entire property, requires off-street on-site parking. One parking space per 800 feet of the site area and Lot 20 is 7,992 square feet. That would mean there are ten parking spaces required to be on the property for this particular use. This is consistent with what the applicant has said in regards to the number of customers he anticipates, 15 or more at a time. At that rate ten cars, or more, could be expected to be at the facility at one time. Those required parking spaces would take up more than 1,500 square feet plus the drive aisles, all to be on a paved area on the subject property, and cannot access one parking space from another parking space per the zoning code. The off-street parking must be set back at least 50 feet from the Boston Avenue right-of-way or the property line, not the pavement. There is not enough room on the subject property for the parking that is required and no request has been made for relief from the parking requirements. Mr. Eagleton has alluded to, and it has been referred to in a letter from Councilor Blake Ewing, the fact that there will be off-site parking. Where that would be is not exactly clear. There is no parking agreement or license agreement that has been presented to the Board for parking. It is well known that people in Tulsa will park as close as possible to get where they want to be so they will be parking wherever they can, i.e., the neighbor's property. The poles are quite high as presented in the exhibits so the lights to illuminate after dark activities will need to be places quite high. Obviously the light will shine on the neighboring residential properties. There is no way to avoid that and the residential properties are very close. Mr. Eagleton stated that his applicant believes the netting will protect the flyers from going into the power lines and this should be a concern. Also, Mr. Schuller wants the Board to consider the noise level that will be happening in this quiet residential and office neighborhood. These people will be participating in a physically challenging activity and an activity that some may call thrilling. In the exuberance of the experience these people will be shouting and hollering their excitement of the experience all day long and into the evening as late as 10:30 at night. This will be very disruptive of the quiet office and residential uses of the neighborhood. From all of this Mr. Schuller thinks the Board cannot find that this use will be in harmony and spirit of the code. It will certainly be injurious to the neighborhood.

Mr. Henke informed Mr. Schuller that the applicant would need to comply with the code. Mr. Schuller stated that is true but there is evidence that the applicant can and has disregarded the code by erecting the poles. Evidence that compliance is not high on the applicant's list is evidenced on the "Cease and Desist Order" that is in the Board's agenda packet. The insurance that was discussed today is not going to protect the

neighborhood, but it will protect the applicant from any liability that he might incur. It does not protect the neighborhood from the impact this proposed facility will have. This is a small commercially zoned parcel of land that would be more suitable for a small retail operation not an outdoor recreational facility.

Mr. Henke asked Mr. Schuller which property owners he represented today. Mr. Schuller stated that he represents all the property owners to 21st Street, with the exception of the house that is immediately to the south of the subject property.

Mr. Henke asked Mr. Schuller if the multiple park activities, with the multitude of participants attending those activities, cause problems with the neighborhood. Mr. Schuller stated that those activities do not cause as much trouble for the residents as is anticipated from the proposed facility. This is a commercial facility that is not warranted.

Evelyn Shelton, Public Service Company of Oklahoma, 5223 South Garnett Road, Tulsa, OK; stated Public Service Company of Oklahoma (PSO) does have concerns because there are electrical power lines and poles near the subject property, and they want safety of the public to be the number one priority. PSO also has concerns over the ten foot buffer zone that is required by Oklahoma Safety and Health Administration (OSHA). OSHA stipulates that if a person is a qualified electrical worker they may work within that ten foot buffer zone. If a person does not have those qualifications PSO requests they do not work within that ten feet buffer zone for the community's protection.

Mr. Van De Wiele asked Ms. Shelton if there was any distance that the applicant could move the poles that would satisfy the company's concerns. Ms. Shelton stated the minimum is ten feet and currently the poles are outside of the ten foot range, but when they work on the installation of the pulley or do maintenance that may put the worker within the ten feet buffer zone that is a concern for PSO.

Mr. Van De Wiele asked Ms. Shelton how high the power lines are in that area. Ms. Shelton stated that the power lines in that area are on 45 foot poles that are set in the ground 10% plus two feet, so that would make the lines a little less than 40 feet high. Mr. White stated that would be closer to 38 ½ feet high.

Mr. Van De Wiele asked if there was a representative from Cox present because there is a letter from Cox in the agenda packet. Ms. Snyder stated that there is also a notation in the packet that there would be a representative from the City Parks Department. Mr. Henke asked if there were any other interested parties present. No one came forward.

Rebuttal:

Mr. Eagleton came forward and stated there is more than adequate parking on the street. As depicted in an aerial view he had placed on the overhead screen showing there were only four cars parked on the street during the daytime. On April 20th there is going to be a run from Boulder Park and the people will be parking on the street almost

all the way to Peoria and walking into the park. When the Tulsa Run holds their event it is much the same thing. There are events, i.e., football games, soccer games, etc., at this location all the time. As far as parking, Mr. Makar is not the problem it is the special events that present the problem and no one shows up to speak out against those events. Mr. Eagleton continued to say that Mr. Makar does have two parking spaces in front, and yes they intrude into the easement but they have been in existence since 1963. Mr. Makar also has space for six cars in his driveway. Mr. Eagleton presented a letter from Mr. Reynolds, an attorney that is due north of the subject property, stating that Mr. Makar can utilize two of his parking spaces should he need to do so. Farther north is the Knights of Columbus Hall. Mr. Gotwals, as manager of the Knights of Columbus Hall, has offered the use of their parking lot if needed. Mr. Eagleton had a triptych picture of Mr. Smith's property, located at 1928 South Boston, placed on the overhead screen and stated that Mr. Smith parks a vehicle in his driveway and another vehicle, possibly two, on the street. Mr. Eagleton pointed out that the picture depicts a barbed wire fence right next to the sidewalk surrounding Mr. Smith's property, which he did not think was in compliance with the City Zoning Code. The triptych also shows Mr. Smith's backyard that can be accessed from Boulder Park has no privacy from the park. If Mr. Smith were concerned about his privacy he would have installed another style fence or curtains that shielded him from any intruding lights. The proposed lighting will be attached to the existing structure on the lower portion and pointed upward into the sky to light the trapeze, and it will not be shining onto Mr. Smith's property. Once Mr. Makar realized he was violating the code he stopped construction immediately, and did so because he wanted to comply with the code. Mr. Eagleton would ask the Board to approve the applicant's request.

Mr. Henke asked Mr. Eagleton if the applicant would comply with any parking issues if a violation was noticed. Mr. Eagleton stated that his client has every intention of complying with the rules and regulations to the best of his ability. Mr. Henke stated that if it is determined that the applicant does need a parking variance and if the Board were to deny that variance request, Mr. Makar understands that would have an impact on his business. Mr. Eagleton stated that is understood.

Mr. Van De Wiele asked Mr. Swiney if upward positioned lights were legal on a commercial property. Mr. Swiney stated that normally lights are shielded and pointed downward and away from any neighboring property. Mr. Eagleton stated the lighting would be the Kennebunk Port standard and he is not aware of any prohibition on upward pointed lights.

Mr. Van De Wiele asked Mr. Eagleton to address PSO's concerns. Mr. Eagleton stated that PSO has a very real concern. The poles are 11'-0" away from the power lines and those poles will not be used by people that are swinging. Those poles will be used to hold the nets steering the trapeze. The closest people will come is when the pulleys are being installed, or there is maintenance, and those people will be on the east side of the poles to do so. During most operational days no one will come up farther than a third of the way up the netting, about 15 or 22 feet away from the electrical power lines horizontally.

Mr. White asked Mr. Eagleton if it is going to be employees climbing the poles being discussed and not customers. Mr. Eagleton stated there would not be any customers installing the rigs. The rigs will be installed by experts.

Mr. Makar came forward and stated that before he installed the poles he had met with an AEP Engineer and discussed the requirements with him. In regards to the parking Mr. Makar stated he met with Ms. Carolyn Back, Senior Planner for INCOG, and she had determined that he would only need six parking spaces based upon the entire size of the trapeze footprint.

Comments and Questions:

Mr. Tidwell stated that the trapeze had been located across from his business at 2nd and Peoria for many years, and they never had a problem with the people or cars. There were very few cars at the site and very little traffic. The trapeze was never a problem.

Mr. Van De Wiele stated that his only concern is the letter from PSO and their concerns.

Ms. Snyder stated that she, too, is concerned about the PSO concerns. She is also concerned about the neighbors.

Mr. White stated that he did a quick calculation and the PSO power lines are 38'-6" tall and the Mr. Makar's poles are 35'-0" tall. So even if Mr. Makar's poles were to fall over they would not hit PSO's power lines. Mr. White stated he has an issue with the parking questions. Mr. White would like to see the Board place a duration time limit on the request so that it may be reviewed again after the trapeze has been in operation.

Mr. Henke stated that he has concerns with the parking and the lighting.

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 a trapeze (Use Unit 20 – Not Elsewhere Classified) in a CS district (Section 401, Table 1) with the conditions imposed in Mr. Eagleton's letter, page 2.32 in the agenda packet. That letter stipulates the following: December 13, 2012 the Tulsa City Council voted to approve CS zoning for the subject property: Mr. Marcus Makar has erected an outside trapeze rig and the centerpiece of the equipment is to be used in Mr. Makar's trapeze school located on the subject property; the hours of operation is to be 9:00 A.M. to 10:30 P.M., seven days a week; the class size is not to exceed 15 students; no outside lights will be directing their beam onto other person's private property; off-site parking is to be available; and the school is to maintain a liability policy when classes are given. The liability policy will be in compliance with the Oklahoma Department of Labor. The parking must comply with the City of Tulsa Zoning Code. This approval will have a time limitation of three years from today's date of April 9, 2013. This approval is subject to conceptual plan on page 2.12. 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 20 BLK 1, BOSTON ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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 parking 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:

Jim Beach, Wallace Engineering, 200 East Brady, Tulsa, OK; stated this application is to establish an office use in what is now the Paladora Apartment Building. The building is currently vacant and gutted. The property is zoned RM-2 and currently surrounded by office use and office zoning. The lot to the north is owned by the same owner and there has been a lot combination filed to tie the two lots together in the future. Between the two lots there is a significant grade change and it is not proposed to remove the wall because of the expense involved. The basement of the building will be used for storage and perhaps a shower facility, because one of the owners is a runner and would like to use the basement as a shower and changing room. There was a neighborhood meeting held and about 20 people attended, and they are in favor of the proposed use.

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 an office use (Use Unit 11) in a RM-2 district (Section 401, Table 1); Variance of required parking spaces from 22 parking 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). The hardship for the variance is the elevation difference between the lot of the application and the lot to the north where the additional parking will be. The lot to the north has a retaining wall and with the removal of the wall would cause structural considerations that would not be easy to deal with. There is also an additional right-of-way owned by the Oklahoma Department of Transportation which reduces the area of the lot to the north of the subject property.

There has been a lot combination filed for the subject tracts. This approval is subject to conceptual plan on page 4.9. Finding the Special Exceptions 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. 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 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**

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NEW BUSINESS

21548—Waid Sign Design

Action Requested:

Variance to allow for 2 wall signs for a church in an RS-3 district (Section 402.B.4).

LOCATION: 5610 South 41st West Avenue **(CD 2)**

Presentation:

Larry Waid, 4714 South 69th East Avenue, Tulsa, OK; stated this application is identified on the agenda as a church and it is a community facility. This application is to allow identification on the building. The hardship is that there is four residences and a stockade fence that blocks the front of the building from the street and it is difficult to see the building.

Mr. White asked Mr. Waid if the signs were going to be lit. Mr. Waid stated that they would not be; the sign will be just letters.

Interested Parties:

Lewis Wilson, Facility Director for Cornerstone Community Center, 4122 West 55th Place, Tulsa, OK; stated the center provides many, many services to the west side community. There are several agencies that are housed within the community center, i.e., Domestic Violence Intervention Services (DVIS), Camp Fire USA, Family and Children Services, etc. There is also a food and clothing distribution center within the building. The community center is also an emergency services shelter in times of need.

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 allow for 2 wall signs for a community center in an RS-3 district (Section 402.B.4), subject to conceptual plans of pages 5.10 and 5.11. The signs help identify the community center which plays a very important role in the neighborhood and the greater area. These signs are to have no interior lighting. 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:

A tract of land located in the Southeast Quarter of the Northwest Quarter (SE/4 NW4) of Section Thirty -three (33) of Township Nineteen (19) North and Range Twelve (12) East of the Indian Base and Meridian (I.B.&M.), according to the U.S. Government Survey, thereof, Tulsa County, State of Oklahoma; said tract being a Re-plot of Lots One (1) through Eleven (11) and Lots Eighteen (18) through Twenty - six (26) of Block Thirteen (13) of CORRECTED PLAT OF OPPORTUNITY HEIGHTS, according to the recorded plat, thereof; said tract bring particularly described as follows; Commencing at the SE corner of the NE/4; thence S. 89'43'01" W a distance of 2,672.12 feet to the Point of Beginning (P.O.B.). Said Point of Beginning also being the SE corner of Lot 24: Thence S 89'06' 20" W a distance of 315.00feet to the SE corner of Lot 17; Thence N 0'44'34" W a distance of 137.50 feet to the NE corner of Lot 17; Thence S 89'06'20" W a distance of 150.00 feet to the NW corner of Lot 12; Thence S 0'44'34" E a distance of 137.50 feet to the SW corner of Lot 12; Thence S 89'06'20" W a distance of 102.06 feet to the SW corner of Lot 11; Thence N32'41'57' E a distance of 330.14 feet to the Northwesterly corner of Lot 9; Thence N 89'06'20" E a distance of 245.12feet to the NW corner of Lot 34; Thence S 0'44'34" E along the West line of Lots 34, 33, 32, 31, 30, 29, 28 and 27 a distance of 200.00 feet; Thence N 89'06'20" E a distance of 140,00 feet to the Ne corner of lot 26; Thence S. 0'44'34" Ea distance of 75.00 feet to the point of beginning and all within Block 13 of CORRECTED PLAT OF OPPORTUNITY HEIGHTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21550—Jesus Moreno

Action Requested:

Special Exception to allow Automotive and Allied Activities for a car lot (Use Unit 17) in a CS District (Section 701, Table 1). **LOCATION:** 2232 North Harvard Avenue East (CD 3)

Presentation:

Jesus Moreno, 3429 South 110th East Avenue, Tulsa, OK; stated that he wants to sell automobiles on the subject property. He is currently operating a granite counter operation from the existing building on the subject property, and he would like to have a little side business of selling automobiles.

Mr. Swiney stated that the code under Use Unit 17 does not allow for any outside storage or display of merchandise. The automobiles would be considered his merchandise, therefore, Mr. Moreno would require a variance also.

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 **CONTINUE** the request for a Special Exception to allow Automotive and Allied Activities for a car lot (Use Unit 17) in a CS District (Section 701, Table 1), to the meeting of May 14, 2013 for additional relief; for the following property:

S 133.5 LT 1 BLK 2, BECKY GAILES ADDN SUB PRT B1-4 MARION TERR & PRT FITTS, MARION TERRACE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21551—Oil Capital Neon – Brandon Moydell

Action Requested:

Variance to allow an EMC in an RS-3 District (Section 402.B.4); ~~Variance to allow for a digital electronic message center to be visible within 200 feet of an RM-2 Residential district (Section 1221.C.2.e).~~ **LOCATION:** 25 South 161st Street East (CD 5)

Presentation:

Brandon Moydell, 4419 West 55th Place, Tulsa, OK; stated he is representing Jubilee Worship Center. The only party that is within the 200 foot radius of the residential

district is the applicant. The only other residence that might be considered within range of the sign is approximately 540 feet away. The sign is going to be used for information for the local residents and parishoners. The existing sign will be taken down before the installation of the new sign.

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 **Variance** to allow an EMC in an RS-3 District (Section 402.B.4), subject to conceptual plans on pages 7.8 and 7.9. The ground in place will be removed before the installation of the new sign. The hardship will be let the public know where the church is located. There will be no blinking, twinkling, flashing, rolling, or animation. Scrolling will be only from right to left. The hours of operation will be 7:00 A.M. to 10:00 P.M., seven days a week. 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 353.21S OF NWC LT 5 TH E314.45 S218 W314.45 N218 POB SEC 2 19 14 1.57AC, QUIK TRIP COMMERCIAL CENTER II RESUB L4 & 5 & 7 B1 QT COMM CTR, QUIK TRIP COMMERCIAL CENTER, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21552—Jeremy Perkins

Action Requested:

Variance to extend the building height from 18 feet to 26 feet for a two-story accessory building in the RE district (Section 210.B.5.a. and c.2); **Variance** of the rear yard setback from centerline of 31st Street (Urban Arterial) from 70 feet to 60 feet in the RE District (Section 210.B.5.b). **LOCATION:** 2232 East 30th Place South (CD 4)

Presentation:

Jeremy Perkins, 2200 South Utica Avenue, Suite 216, Tulsa, OK; stated the two hardships is the fact the property is in an RE district, and the storm drain line going through the backyard cannot be built on.

Mr. Tidwell asked if the second story living quarters was going to be rented out. Mr. Perkins stated that the plans are to have that area as guest quarters for family and the applicant is willing to sign an affidavit to that effect.

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 extend the building height from 18 feet to 26 feet for a two-story accessory building in the RE district (Section 210.B.5.a. and c.2); Variance of the rear yard setback from centerline of 31st Street (Urban Arterial) from 70 feet to 60 feet in the RE District (Section 210.B.5.b), subject to conceptual plan on page 8.13. Finding that the storm water drain line that cuts across the property would prevent the location of the proposed two-story accessory building being closer to the main building on the lot. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

LT 5 BLK 20, FOREST HILLS, FOREST HILLS ADDN RESUB B20, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21553—Metro Signs – Brian Elliott

Action Requested:

Variance to permit 6 wall signs in an AG district for a church (Section 302.B.2).

LOCATION: SE/c of South Maybelle West Avenue and West 81st Street **(CD 2)**

Presentation:

Brian Elliott, Metro Signs, 401 North Ann Arbor, Oklahoma City, OK 73127; stated he is representing Life Church requesting six identification signs for the church. When Life Church opens up their campus the parking lot it will accommodate approximately 400 spaces. The church anticipates approximately 2,000 parishoners in attendance through the week growing to approximately 5,000 on the weekend. The signs have been designed to fit the architecture of the building and are required to identify the various entrances of the church.

Mr. White asked Mr. Elliott if there was any lights proposed for the signs. Mr. Elliott stated the signs are interior lighted signs and will not have any message centers.

Mr. Tidwell left the meeting at 2:38 P.M.

Mr. Van De Wiele asked if there were any issues over the size of the signs. Mr. Bates stated that there are no concerns about the size of the signs, but if it does become an issue it will be caught at the permit office during the permitting review.

Mr. Tidwell re-entered the meeting at 2:41 P.M.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SNYDER**, 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 permit 6 wall signs in an AG district for a church (Section 302.B.2) finding that the church has a need for signage because the congregation fluctuates between 2,000 up to 5,000 on the weekend. This approval is subject to per plans on pages 9.8 and 9.9. 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 437.07S NWC NE TH E ALG SL N/3 N2/3 N/2 NE 646.70 TH S207.07 W646.70 N207.07 POB SEC 14 18 12 3ACS, BEG NWC NW NE TH S436 E269.75 N436 W269.75 POB SEC 14 18 12 3 ACS, BEG 2092W NEC NE TH S436 W269.75 N436 E269.75 POB SEC 14 18 12, LIFECHURCH.TV JENKS ADDITION, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21555—Kristen Daffern

Action Requested:

Variance of the building setback from the centerline of South Harvard Avenue from 100 feet to 81 feet for a greenhouse addition (Section 703). **LOCATION:** 3901 South Harvard Avenue East (CD 9)

Presentation:

Roy Johnsen, 1 West 3rd Street, Suite 1010, Tulsa, OK; stated he represents Ted and Debbie Wilson who operate Ted and Debbie's Flower and Garden. They purchased the property located on the southeast corner of 39th and Harvard in 1989 and have had the shop in that location all that time. The original greenhouse burned down in November 2012 and the new greenhouse will be placed in the same footprint of the original greenhouse. The setback is 100 feet for Harvard and the variance being sought is for 81 feet. There are multiple buildings along Harvard that do not meet the required setback and it has been that way for quite some time. This request is consistent with that trend on Harvard. There have been several letters presented to the Board from people in the area, and those letters show support of the business. The site plan for the proposed new building is 25'-0" x 31'-0" which might be a little larger than the original footprint of the previous building, so he would request the Board to approve the request as a conceptual plan.

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 South Harvard Avenuw from 100 feet to 81 feet for a greenhouse addition (Section 703), subject to conceptual plan on page 10.15. Finding that the applicant is rebuilding a greenhouse that was destroyed by fire in November of last year. Having found, also, that other businesses in the immediate area are also closer to the center line of South Harvard than the 100 foot setback. 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:

W140 LT 11 BLK 5, EISENHOWER THIRD ADDN, CITY OF TULSA, TULSA
COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

No further business to be conducted under this heading.

NEW BUSINESS

Ms. Miller wanted to let the Board know that Mr. Brad Bates has been filling in for Ms. Carolyn Back in her absence and he was able to get the case reports written up for the Board's review in two days. Ms. Miller wanted to congratulate Brad on a job well done. Mr. Henke thanked Brad and stated that he did a fine job today.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 2:50 p.m.

Date approved: _____

4/23/13

Frank X. Henke, Jr.

Chair