

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1092  
Tuesday, April 23, 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 Walker	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, April 17, 2013, at 2:08 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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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 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the April 9, 2013 Board of Adjustment meeting (No. 1091).

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## 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:

The applicant has requested a continuance to June 25, 2013 to allow time to finalize plans with the City of Tulsa and return to the Board of Adjustment with complete information that is relevant to the request.

#### 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 meeting of June 25, 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**

### 21541—Robert Thomas

#### Action Requested:

Variance of the north side yard setback from 5'-0" to 1'-9 ¾" in the RS-3 District (Section 403.A, Table 3). LOCATION: 1315 North Atlanta Avenue East (CD 3)

Ms. Back informed the Board that they have heard this case previously, and it is back before the Board with the corrected measurements.

Mr. Henke stated the Board can act on this case.

**Presentation:**

The applicant was not present.

**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 north side yard setback from 5’-0” to 1’-9 ¾” in the RS-3 District (Section 403.A. Table 3), subject to conceptual plans on pages 3.9, 3.10 and 3.11. The Board has found that this garage is to be a replacement of a garage that was demolished a few months ago. This garage is to be built in the same place. 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 15 BLK 5, BELLEVUE HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**NEW BUSINESS**

**21556—3 GD, Inc.**

**Action Requested:**

Special Exception to allow a skilled nursing home (Use Unit 2 – Not Elsewhere Classified) in an OM District (Section 601, Table 1). **LOCATION:** 5151 East 51<sup>st</sup> Street South (CD 5)

**Presentation:**

**Nathan Morton**, 3 GD, Inc., 214 South 2<sup>nd</sup> Street, Rogers, Arkansas 72756; stated this application is for a school nursing home and it will replace an existing Parks Edge Nursing Property, Inc. which is located directly west of the subject site. Before demolishing the old 126-bed nursing home he would like to build the proposed project

thus allowing him to maintain the staff and patients. The existing building was built in the 1960's and it cannot be retrofitted.

**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 a skilled nursing home (Use Unit 2 – Not Elsewhere Classified) in an OM District (Section 601, Table 1), subject to conceptual plans on pages 4.11 and 4.12. 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 1, LINCOLN CTR, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21557—Eugene Brierly**

**Action Requested:**

Special Exception to allow a proposed accessory garage for a Plumbing Contractor (Use Unit 15) and an Air Conditioning and Heating Business (Use Unit 15) in a CS zone (Section 701, Table 1). **LOCATION:** 2777 South Memorial Drive East **(CD 5)**

**Presentation:**

**Eugene Brierly**, 8125 East Skelly Drive, Tulsa, OK; stated he wants to add a plumbing contracting business to his existing heat and air business. The garage is an existing building that will be used.

**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 a proposed accessory garage for a Plumbing Contractor (Use Unit 15) and an Air Conditioning and Heating Business (Use Unit 15) in a CS zone (Section 701, Table 1), subject to per plan on page 5.5. 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 10 LESS W10 FOR ST BLK 2, TRI CENTER, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21502-A—F. Lubbock “Buck” Davies, III**

**Action Requested:**

Variance to permit parking within the required front yard for a church in an RS-2 / OL district (Section 1205.B.1.b). **LOCATION:** 5414 South Harvard Avenue East, 5502 South Harvard Avenue East (**CD 9**)

**Mr. Henke recused and left the meeting at 1:15 p.m.**

**Presentation:**

**Buck Davies**, Davies Architects, 2700 South Boston Avenue, Tulsa, OK; no presentation was made but the applicant was present for any questions.

Ms. Snyder asked Mr. Davies about the landscaping of the parking lot. Mr. Davies stated there will be landscaping. The real purpose of the application is to improve the landscape design and enhance the property.

Mr. Van De Wiele asked Mr. Davies to state his hardship. Mr. Davies stated that the existing church property is surrounded by publicly held property on all sides and has no place to expand. The church is attempting to make the best use of the parcel of property that they have.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **SNYDER**, the Board voted 4-0-1 (Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; Henke “abstaining”; none absent) to **APPROVE** the request for a Variance to permit parking within the required front yard for a church in an RS-2 / OL district (Section 1205.B.1.b), subject to conceptual plan on page 6.8. The Board has found that the hardship is that this is the only place the church can park on the property and this proposal will be an improvement to the property. Also, the church across the street from the subject property has parking in the front. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land,

structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**PRT LT 1 BEG SWC TH N93 E10 N30 E10 SE50.45 SE66.25 SE63.46 TO SL W150 POB BLK 1, BEG 466.69S NEC SE NE TH W466.69 S300 E466.69 N300 POB LESS E50 FOR ST SEC 32 19 13 2.87ACS, TERRA AEDES ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. Henke re-entered the meeting at 1:19 p.m.**

**21559—Colin Lamb**

**Action Requested:**

Variance of the required front yard from 30 feet to 21 feet; Minor Variance of the required side yard, on the east, from 10 feet to 8 feet for new construction in an RS-2 district (Section 403.A, Table 3). **LOCATION:** 3610 East 70<sup>th</sup> Street South **(CD 8)**

**Presentation:**

**Colin Lamb**, 4121 South St. Louis Avenue, Tulsa, OK; stated there had been a home on the subject lot that burned down a few years ago. The proposed home will be a new residence.

**Interested Parties:**

**Curtis Nelson**, 3615 East 70<sup>th</sup> Street, Tulsa, OK; stated he lives on the same cul-de-sac as the subject property. He is the Vice President of the Home Owner's Association. The Home Owner's Association has concerns that the building is not going to comply with the restrictive covenants of the neighborhood. The covenant requires 20 feet total of the two side yards together with a 7'-6" minimum distance on the closest side yard, and a 30 foot setback. The original house did not have the variance approved before construction; it was approved after the house was constructed so the previous homeowner could clear the title. Mr. Nelson thinks the Home Owner's Association can work with Mr. Lamb to come to a mutual agreement.

Mr. Henke stated that the Board does not address restrictive covenants. That would be between the applicant and the Home Owner's Association. Mr. Lamb is before the Board asking for a variance and that can be addressed.

**Comments and Questions:**

Mr. Van De Wiele stated that there are restrictive covenants that can be discussed with the Home Owner's Association, but the proposed house appears to be less of an issue than the previous house on the subject lot.

**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 required front yard from 30 feet to 21 feet; Minor Variance of the required side yard, on the east, from 10 feet to 8 feet for new construction in an RS-2 district (Section 403.A, Table 3), subject to conceptual plan on page 7.8. The Board has found that the lot in question is a rather unique and strange shape, as well as, quite a grade change from back to front. The Board has also found that the home that was previously on the lot had a similar degree of setback encroachment. The construction the applicant proposes will have less of a front setback encroachment. 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 14 BLK 2, VIENNA WOODS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21560—120 Development Group**

**Action Requested:**

Verification of the spacing requirement for an Adult Entertainment Establishment (Use Unit 12a - bar use) of 300 feet from a park, school, or church in the CBD District (Section 1212.a.C.3.b). **LOCATION:** 111 North Main Street East, Suite D (CD 4)

**Presentation:**

**William Wilkins**, 120 Development Group, 615 North Cheyenne, Tulsa, OK; no presentation was made but the applicant was available for any questions.

**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) based upon the facts in this matter as they presently exist to **ACCEPT** the applicants request for a **Spacing Verification** for the proposed adult entertainment establishment, subject to the action of the Board being void should another conflicting use be established prior to this adult entertainment; for the following property:

**ALL LTS 4 & 5 & S40 LT 6 BLK 41, TULSA-ORIGINAL TOWN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21561—Fernando Leos**

**Action Requested:**

**Special Exception** to allow a Tire Shop (Use Unit 17) in a CS District (Section 701, Table 1). **LOCATION:** 5102 South Union Avenue West **(CD 2)**

**Presentation:**

**Fernando Leos**, 4625 South Tacoma Avenue, Tulsa, OK; no presentation was made but the applicant was available for any questions.

**Interested Parties:**

**Kay Price**, 5815 South 31<sup>st</sup> West Avenue, Tulsa, OK; stated the proposed business will be a good addition to the area. The building is an old and vacant service station that has been empty for many years. The building is located between two intersecting arterial streets and I-44 is on the rear side. There is quite a distance between the existing building and any neighborhood of the area. She has a concern of outdoor storage of the tires. She would like to have the Board place the restriction on the business of storing the tires under a shed roof or indoors so the rain cannot accumulate to become a mosquito breeding ground. Ms. Price also hopes the applicant will meet with the sign department staff before erecting any signs.

**Rebuttal:**

Mr. Leos stated that there would not be any outdoor storage because the old tires will either be inside the existing building or held within a box truck, and eventually they will be disposed of properly.

Ms. Snyder asked Mr. Leos to explain what he meant by a box truck to be used for storage. Mr. Leos stated it is like a box that is enclosed on all four sides with a roof.

Mr. Van De Wiele asked Ms. Back if a fence would be required between the back of the subject property and I-44. Ms. Back stated that it would not be required because the subject property abutts an R district that is a freeway, and outdoor open air storage or display of merchandise may be done unless the Board imposes conditions for one or both of those items in the code.



**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 Special Exception to allow a Tire Shop (Use Unit 17) in a CS District (Section 701, Table 1), subject to the conceptual site plan the applicant submitted today, April 23, 3013. There is to be no outdoor storage of tires or other merchandise. All signage is to be per code. 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:

**BEG 50S & 65W NEC NE TH S92.34 SW164.05 W20.74 N148.15 E175 POB SEC 34  
19 12 .50AC, 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 1:37p.m.

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

5/14/13

*Frank X. Henke, III*

Chair