

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1096
Tuesday, June 25, 2013, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

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

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, June 20, 2013, at 10:40 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

Mr. White explained to the applicants that there were only four board members present at this meeting, and if an applicant would like to postpone his or her hearing until the next meeting he or she could do so. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from three board members to constitute a majority and if two board members voted no today the application would be denied. Mr. White asked the applicants if they understood and asked the applicants what they would like to do. No applicants stood for recognition and no one requested a continuance to the next Board of Adjustment meeting. Mr. White proceeded with the meeting.

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

MINUTES

Mr. White stated that, after conferring with Mr. Swiney, the Minutes presented for approval at today's meeting cannot be approved due to two Board members that are present today were absent at the last Board of Adjustment meeting thus leaving only two Board members eligible to vote on the approval of Minutes, which does not constitute the quorum of three. Therefore the approval of the Board of Adjustment Minutes for the June 11, 2013 meeting will be continued to the next Board of Adjustment meeting on July 9, 2013.

* * * * *

UNFINISHED BUSINESS

21538—Nathan Cross

Action Requested:

Variance of the front yard setback from 60 feet to 47.5 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:

Nathan Cross, 502 West 6th Street, Tulsa, OK; no presentation was made. The neighbors have requested a continuation to the Board of Adjustment meeting on July 9, 2013.

Mr. Van De Wiele asked Ms. Back if this continuation was being requested in order to have a full Board hear the case. Ms. Back stated that the neighbors wish to have a full Board present when the case is heard, and one of the Board members present today find it necessary to recuse from this case.

Interested Parties:

None of the interested parties came forward.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke absent) to **CONTINUE** the request for a Variance of the front yard setback from 60 feet to 47.5 feet in the RS-1 district for construction of a new single-family residence (Section 403.A, Table 3) to the meeting of July 9, 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

21575—Bill LaFortune

Action Requested:

Special Exception to allow New and Used Auto Sales (Use Unit 17) in the CS District (Section 701, Table 1); Variance of the requirement that no merchandise may be displayed outside within 300 feet of an R district (Section 1217.C.2). **LOCATION:** 4714 South Peoria Avenue East (CD 9)

Presentation:

No presentation was made; the applicant was not present. Brookside Neighborhood Association has requested a continuance to July 9, 2013, or later, to meet with the developer and residents regarding this application.

Ms. Back stated that she has spoke with Mr. Bill LaFortune and he has no objections to continuing this case to the July 9, 2013 Board of Adjustment meeting.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **TIDWELL**, the Board voted 4-0-0 (Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke absent) to **CONTINUE** the request for a Special Exception to allow New and Used Auto Sales (Use Unit 17) in the CS District (Section 701, Table 1); Variance of the requirement that no merchandise may be displayed outside within 300 feet of an R district (Section 1217.C.2) to the meeting of July 9, 2013; for the following property:

LT 2 LESS E15 THEREOF FOR ST, EVERGREEN SUB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

* * * * *

NEW BUSINESS

21576—Donna Lyons

Action Requested:

Special Exception to allow a Use Unit 13 (Salon) as a home occupation in an RS-3 District (Section 402.B.6.b). LOCATION: 547 East 40th Place North (CD 1)

Presentation:

Donna Lyons, 547 East 40th Place North, Tulsa, OK; stated she has owned the home for 20 years, She has a four-car driveway for the clients to use. There three abandoned houses across the street from her residence, and there are no “No Parking” signs located on her street. She works along and the salon will have only one chair. She does not want to advertise and she does not want to accept any new clients. She has been a licensed cosmetologist for over 21 years. She will not be working on Sundays or Mondays.

Interested Parties:

Ethel Mae Brown, 430 East Seminole Place, Tulsa, OK; stated that she has been a client of Ms. Lyons for the last 19 years. She read a letter that was written by Ms. Idella Wilson, a client of Ms. Lyons, residing at 578 East 40th Place North. The letter stated that Ms. Wilson was unable to attend today’s hearing and she has no objections to Ms. Lyons having a salon in her home. Ms. Wilson stated in the letter that she too is a client and that Ms. Lyons is always professional, neat and always clean. Ms. Wilson wrote that the business is an asset to the community.

Nicole Lyons, 547 East 40th Place North, Tulsa, OK; stated she is Ms. Lyons daughter. She read a letter that was written by Richard and Lois Smith, residing at 551 East 40th Place North, next door to Ms. Lyons. They wrote they have no objections to Ms. Lyons home occupation business.

Mr. White asked Ms. Lyons if she had read the conditions for a home occupation business. Ms. Lyons stated that she had read them.

Mr. Tidwell asked if she could abide by the conditions. Ms. Lyons stated that she could abide by the conditions with no problem.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Henke absent) to **APPROVE** the request for a Special Exception to allow a Use Unit 13 (Salon) as a home occupation in an RS-3 District (Section 402.B.6.b). This approval will be subject to the hours of operation

being 10:00 A.M. to 6:00 P.M., Monday through Saturday. There are to be no employees other than Ms. Lyons. There is to be one customer at a time by appointment only with no walk-in services. Parking is to be in the existing driveway and no outdoor signage. 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 8 BLK 4, CHANDLER FRATES FOURTH ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21577—Rick Stuber

Action Requested:

Variance of the parking requirement from 108 spaces to 88 spaces (Section 1214.D); Variance to reduce the building setback from 100 feet to 90 feet to enclose an existing canopy on the north side of the building in the CS District (Section 703, Table 2). **LOCATION:** 6125 South Sheridan Road East (**CD 7**)

Presentation:

Rick Stuber, 2642 East 21st Street, Suite 195, Tulsa, OK; stated he represents the Shadow Mountain Retail Center in requesting the Board's consideration for the parking variance. The owner has the opportunity to lease a 1,900 square foot end-cap in the center. A literal interpretation of the Zoning Code is that the hardship in this case is where present conditions require 102 parking spaces and there are only 88 parking spaces. At the same time, the owner is requesting a variance in the reduction of the setback along the north property line. When the zoning only classification was received from Mr. Chuck Lange, at the City of Tulsa Development Services, the new tenant which is a cell phone repair shop was considered to be Use Unit 14, which was a change in the occupancy from the previous tenant. It was noticed on survey that the north canopy is inside the north setback by nine inches. When the center was originally constructed it created a non-conforming structure. In order to expand in the canopy the non-conformance issue needs to be rectified, and it was recommended that a little more setback be requested in order to have no further issues. The purpose is to stay within the existing canopy and structure which is approximately 400 square feet thus allowing the current tenant to have 2,300 square feet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke absent) to **APPROVE** the request for a

Variance of the parking requirement from 108 spaces to 88 spaces (Section 1214.D); Variance to reduce the building setback from 100 feet to 90 feet to enclose an existing canopy on the north side of the building in the CS District (Section 703, Table 2), subject to conceptual plans on pages 5.25 and 5.26. The Board has found the existing shopping center and existing parking spaces therein, and the requested relief is necessary due to the recent leasing of this space on the northend of the property. 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:

LTS 1 & 2 LESS W10 LT 2 & LESS N10 E5 LT 1 FOR ST BLK 1, GRAVATT-TABOR CENTER, MSM CENTER RESUB L2 B1 GRAVATT-TABOR CTR, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21578—Verl Twist

Action Requested:

Variance to reduce the side yard setback from 32.5 feet to 27 feet for a corner lot in an RS-2 District for a carport on the west side of the house (Section 403.A, Table 3).

LOCATION: 1503 East 37th Place South (CD 9)

Presentation:

Verl Twist, 2608 West Kenosha, Tulsa, OK; stated the request for a variance is to be able to construct a two-car carport on the west side of the owner's property. There has been quite a bit of input from the surrounding neighbors and they all are happy to see the carport added to the house.

Ms. Snyder asked Mr. Twist if the proposed carport was to be enclosed. Mr. Twist stated that it would not be enclosed.

Mr. Van De Wiele asked Mr. Twist to explain what his hardship would be for his request. Mr. Twist stated that when the neighborhood was built the garages were smaller than a lot of today's cars, and this proposed carport would cover and give protection to the home owner's cars. The neighborhood has multiple carports and some of them extend toward the street than what this carport will.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 4-0-0 (Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Henke absent) to **APPROVE** the request for a **Variance** to reduce the side yard setback from 32.5 feet to 27 feet for a corner lot in an RS-2 District for a carport on the west side of the house (Section 403.A, Table 3), subject to conceptual plan 6.11. The Board has found that the house was one of the originally constructed houses in the Brookside neighborhood, and the garages of these homes are not necessarily large enough to house today’s cars so there is a need for this carport. 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:

LOT 12 A BLK 3, WOODLAND HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21579—Gabe Palacios

Action Requested:

Variance of the required parking spaces from 38 spaces to 0 spaces in a CH District for a mixed-use building with restaurant and residential uses (Section 1212.D & Section 1208.D). **LOCATION:** 607, 613, and 615 South Quaker East, 1328 1334, and 1338 East 6th Street South **(CD 4)**

Presentation:

Gabe Palacios, 1812 South Cheyenne, Tulsa, OK; stated the property in question is on the corner of 6th and Quaker on the south side of the street. The building was built in 1924 and is a two-story brick building. The building has four apartments on the second floor with a restaurant space on the first floor. In researching the records on the property it was discovered that the first floor has continually either been a restaurant or delicatessen since 1933. The proposal is to bring the building back to what it was and have a working restaurant on the first floor again. The restaurant is the first of a master plan for five potential properties that will be ready for tenant space rental or opening under the Rahhal Property name. There have been tenants on the second floor for over 20 years and have never had an issue with parking; they park on the street. The site plan in the Board’s agenda packet has the first floor designated as two spaces. The orange area is the restaurant area and the grey area is currently storage area. Today’s application is applying for the parking space for both those areas combined. Currently the plans are to open the restaurant up for the orange designated area only, and if the restaurant does well expand the restaurant into the grey area. The grey space has been calculated as a restaurant when figuring the parking spaces. The 38 spaces

requested today is a higher count than what the restaurant will ever use. It is hoped that this area will grow and become similar to the Blue Dome District or the Pearl District. The area is envisioned to be a walking community where a high traffic flow would not be a concern. The City of Tulsa master transit plan shows buses becoming prevalent in the area with bicycle parking areas. There is a public park near the building with 34 parking spaces and the public uses those spaces now when they visit the Pheonix Café and there is plenty of on-street parking at the moment.

Mr. Van De Wiele asked staff if the Board was being asked to consider the granting of this request for the entirety of the six lots or is the request just for the subject building and lot? Ms. Back stated the request is just for the subject building and the lot it sits on, however, the applicant does own the entire block area. The ownership of the six lots by the applicant is why all six lots are shown in the Board's agenda packet.

Mr. Palacios stated that he has just completed a lot combination process to have all the lots combined into one lot, because there is a hope that they all be developed jointly. Mr. Palacios stated that he will be coming back before the Board of Adjustment for the remaining spaces.

Mr. White asked Mr. Swiney for the status of the Form Based Code that has been under discussion. Ms. Miller interjected for Mr. Swiney, and stated that the City of Tulsa is currently updating the entire Zoning Code. The City has just recently hired another consultant to look at the Form Based Code in conjunction with the Zoning Code. This is an ongoing project. The subject area is not in the Form Based Code but it could be in the future.

Mr. Palacios stated that working with the staff of INCOG, Susan Miller and Paul Enix of the City has been amazing. He is originally from Texas and has worked with over 25 Municipalities in eight years, doing over 500 million dollars worth of work, and it has been absolutely amazing with this group. This group is really proactive and helpful. Mr. Palacios stated that he has never worked with a group that is as good as the staff of INCOG and the City of Tulsa.

Interested Parties:

Bonnie Rahhal, 4363 East 72nd Street, Tulsa, OK; stated that she and her husband have acquired this property piece by piece over the last 30 years. This area does not exist like it does in Brookside, the Pearl District or in other areas. The City of Tulsa has indicated that they may be able to help the people of the area by turning little lots that they own into parking in the future.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 4-0-0 (Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke absent) to **APPROVE** the request for a

Variance of the required parking spaces from 38 spaces to 0 spaces in a CH District for a mixed-use building with restaurant and residential uses (Section 1212.D & Section 1208.D). Finding that in a prior Board of Adjustment case, BOA-21192, it was mentioned that within an eighth of a mile on the corner of 6th and South Peoria Avenue there are 115 parking spaces on and off-street and 302 parking on and off-street spaces within a quarter of a mile of the subject property. The Sixth Street Plan also suggests that on and off-street parking should be encouraged. Also, finding that the hardship is the attempts to finalize the Form Based Code in the subject area, and parking would not apply under that code. 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:

E 40 OF LT 5 E 40 S 35 OF LT 6 BLK 10, W90 OF LT 5 W90 S20 OF LT 6 BLK 10, W 50 N 40 LT 7 & W 50 LT 8 BLK 10, N30 W70 OF LT 6 S10 W70 OF LT 7 BLK 10, E37.4 N15 OF LT 6 E37.4 OF LT 7 E37.4 OF LT 8 BLK 10, W22.6 E60 N15 LT 6 & W20 E60 S15 N30 LT 6 & W42.6 E80 N40 LT 7 & W22.6 E60 S10 LT 7 & W42.6 E80 LT 8 BLK 10, FACTORY ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21580—Winkelmann & Associates – Michael Doggett

Action Requested:

Variance of the required off-street parking from 59 spaces to 44 spaces (Section 1214.D); Variance to reduce the building setback from 100 feet to 85 feet in the CS District for the construction of a CVS Pharmacy (Section 703, Table 2). **LOCATION:** 3022 South Garnett Road East, 3036 South Garnett Road East, 11115 East 31st Street South, 11141 East 31st Street South (CD 6)

Ms. Back stated this is attached to the entire parcel but the parking variance request is only for Tract 1, so the parking focus is for Tract 1 only.

Presentation:

Michael Doggett, Winkelmann & Associates, 6750 Hillcrest Plaza Drive, Suite 325, Dallas, TX 75230; stated his firm is the civil engineering firm for CVS Pharmacy. CVS Pharmacy is currently under a parking contract with Arby's and remaining shopping center. Currently the proposal is to demolish and remove the Arby's creating a separate parcel. After today's meeting with the Board of Adjustment Mr. Doggett will go to INCOG to submit the lot-split request to create the three tracts that Board has in their agenda packet. The strip center owner is concerned about pushing the building farther

back and eliminating more parking spaces to meet the building setback. Church's Fried Chicken is not interested in relocating or giving up their corner. The CVS Pharmacy has been orientated so parking can be shared between the two properties. All three tracts, including Church's, are entering into a parking agreement so there will be shared among all three tracts. If all three tracts were under one parcel this would only be a two stall variance request. In this case there will be three separated parcels created and the other two tracts have more than adequate parking.

Mr. Van De Wiele asked Mr. Doggett if there would be a problem if the Board were to approve this request contingent on a parking agreement being submitted to the Board. Mr. Swiney stated that he understands that the parking agreement is valuable to the Board in this case so it is a condition that the Board can place on the approval of this request if they so desire.

Ms. Back stated that tracking a parking agreement to be submitted to INCOG or the Board of Adjustment is difficult because there is no way of keeping tabs on a timely submission, but staff will support any decision the Board makes.

Mr. Doggett stated that the CVS closing hinges on the parking agreement because without it CVS will not close on the property. So he does not have any problem with submitting a copy of the parking agreement to the Board.

Mr. Van De Wiele asked Mr. Doggett if he had a closing date schedule. Mr. Doggett stated closing is slated for August 20th or earlier.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 4-0-0 (Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke absent) to **APPROVE** the request for a Variance of the required off-street parking from 59 spaces to 44 spaces (Section 1214.D); Variance to reduce the building setback from 100 feet to 85 feet in the CS District for the construction of a CVS Pharmacy (Section 703, Table 2). The approval of the first variance will be contingent upon the applicant obtaining a shared parking agreement for Tract 1 only and submitting it to the Board of Adjustment. Finding that the hardship for the second variance to be the odd shape of the lot and there is existing parking with existing clients in other buildings, and to get the size of building needed the applicant had to place the building in the proposed spot on the site. This approval subject to Plan 8.11. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other

property in the same use district; and that the variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

LT 1 LESS BEG SECR LT 1 TH W200 N200 SE POB & LESS PRT TO CITY BEG SECR TH N21 SWLY TO PT SE POB BLK 1, PRT LT 1 BEG SECR LT 1 TH W200 N200 SE POB LESS BEG SECR TH NW TO PT SLY TO PT E7.56 POB BLK 1, PRT LT 1 BLK 1 & PRT SE SE BEG SWC LT 1 TH E444.08 N320 E199.31 N130 W318.5 SWLY ON CRV 417.78 W17.6 SELY ON CRV 205.51 S109.53 POB LESS A TR BEG 23.93NW NWC LT 1 TH NW51.57 NE17.59 CRV LF 34.28 SE5.62 SW38.57 SE25.11 SW1.6 POB FOR ST SEC 18 19 14 .847AC, PRT SE SE SEC 18 19 14 & PRT LT 1 BEG NEC LT 1 TH S72.15 W200 N120 E200 N130 E50 S TO PT NW55.42 POB LESS BEG 298.16N SECR SEC TH NW55.42 N177.86 E50 S201.84 POB BLK 1,SUNRAY CENTER, VALLEY GLEN CENTER, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21581—Lou Reynolds

Action Requested:

Variance of the minimum street frontage requirement to 0 feet to permit the platting of a panhandle parcel, with a mutual access agreement, zoned CS and OL (Section 603, Table 3). **LOCATION:** 717 West 71st Street South **(CD 2)**

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated the parcel is an unusual shape and has a 579 foot panhandle along 71st Street, and it is zoned CS. There is another tract that is 655 feet long and 525 feet wide that is zoned OL. There is a new QuikTrip store that just opened on the southwest corner of the site. There is a signalized intersection that is for Tulsa Hills and there is a mutual access easement with which this property receives its access. The site has over a 9% fall across it which is over a 32 foot fall making it difficult to fit streets in. The preliminary plat shows access from 71st Street but the City has said no to that access so there will no legal access to a public dedicated street. There is also a stormwater detention pond on the lot. Currently the plans are to construct a Warren Clinic on the front portion of the parcel with the plans for the rear still unknown.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Henke absent) to **APPROVE** the request for a

Variance of the minimum street frontage requirement to 0 feet to permit the platting of a panhandle parcel, with a mutual access agreement, zoned CS and OL (Section 603, Table 3), subject to conceptual plan 9.6. The Board has found that the unique topography of the property along with the requirement of the City of Tulsa relevant to the access of Lot 1, as shown on page 9.6, represents on the property. A mutual easement, or agreement, related to the access be filed in this matter. This creates an 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 that is part of the Southwest Quarter (SW/4) of the Southeast Quarter (SE/4) of Section Two (2), Township Eighteen (18) North, Range Twelve (12) East, of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, being more particularly described as follows:

Commencing at the SW corner of the SE/4 of said Section 2; Thence N01°15'08"W along the west line of said SE/4 a distance of 659.59 feet to the Point of Beginning; Thence continuing N01°15'08"W along said west line SE/4 a distance of 659.45 feet; Thence N89°08'30"E along the north line of the SW/4 of said SE/4 a distance of 528.00 feet; Thence S01°15'08"E and parallel with said west line SE/4 a distance of 1239.12 feet; Thence S89°09'04"W along the north Right of Way line of West 71st Street South a distance of 196.06 feet; Thence N01°15'08"W and parallel with said west line SE/4 a distance of 579.61 feet; Thence S89°08'51"W a distance of 331.94 feet to the Point of Beginning. Said tract containing 461,829.92 square feet, or 10.60 acres, more or less, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

16901-A—Wallace Engineering – Jim Beach

Action Requested:

Modification to a previously approved Site Plan (BOA-16901) For Phase 1 of a 4 Phase Master Plan; Variance of the required off-street parking requirement from 264 spaces to 210 spaces for Phase 1 parking only in the RS-3 District (Section 1205.C).

LOCATION: 1727 South 75th Avenue East (CD 5)

Mr. Van De Wiele asked if the Board could take of agenda Item #14 at the same time as this case because they are related to each other. Ms. Back stated there would be no problem in doing that.

Presentation:

Jim Beach, Wallace Engineering, 200 East Brady, Tulsa, OK; stated this request for the campus of St. Pius Church and School. The project is a four phased master plan project, but the application before the Board today is for Phase I only. The existing parking is less than what the code would require, and the school is attempting to maintain the status quo on the parking for now. As other phases are completed there will be other parking arrangements made that will bring the parking closer to the code requirements. The school and the church do not operate at the same time so there will be shared parking.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Henke absent) to **APPROVE** the request for a **Modification** to a previously approved Site Plan (BOA-16901) For Phase 1 of a 4 Phase Master Plan; **Variance** of the required off-street parking requirement from 264 spaces to 210 spaces for Phase 1 parking only in the RS-3 District (Section 1205.C), subject to conceptual plan 10.10. The Board also approves agenda Item #14 which is a refund of INCOG fees in the amount of \$50.00 The Board has found that the lot in question, that houses both a church and school, with the 210 parking spaces will adequately serve the needs of the uses of the lot. 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 11 BLK 5, MOELLER HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21583—Wallace Engineering – Jim Beach

Action Requested:

Modification to previously approved site plan (BOA-17647) to permit Phase I Boys & Girls visitor locker rooms, concessions, restrooms, and outdoor seating area.

LOCATION: 3905 South Hudson Avenue (CD 5)

Presentation:

Jim Beach, Wallace Engineering, 200 East Brady, Tulsa, OK; stated this project will be completed in several phases. The overall project will entail the bleachers will be expanded on the west and east sides of the stadium. There will be new restrooms, visitor locker rooms, and a concession stand area thus forming a “u” around the field. In Phase I there will be new restrooms and concessions.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Henke absent) to **APPROVE** the request for a **Modification** to previously approved site plan (BOA-17647) to permit Phase I Boys & Girls visitor locker rooms, concessions, restrooms, and outdoor seating area, subject to the conceptual plan submitted today – June 25, 2013 – and dated June 24, 2013. Finding that the modified site plan will be compatible with and non-injurious to the surrounding residential area and meets the previously granted Board relief as to bulk and area zoning requirements per code; for the following property:

A TRACT OF LAND IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 19 NORTH, RANGE 13 EAST, CITY OF TULSA, TULSA COUNTY STATE OF OKLAHOMA, BEING MORE PARTICULARLY DESCRIBED AS:

BEGINNING 674.75 FEET NORTH AND 85 FEET EAST OF THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE EASTERLY 360 FEET; THENCE SOUTHERLY 200 FEET; THENCE EASTERLY 340 FEET; THENCE SOUTHERLY 125 FEET; THENCE EASTERLY 352.24 FEET; THENCE SOUTHEASTERLY 99.17 FEET TO THE NORTHWESTERLY RIGHT OF WAY OF SKELLY DRIVE; THENCE NORTHEASTERLY ALONG SAID RIGHT OF WAY TO A POINT ON THE EAST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTHERLY ALONG SAID EAST LINE TO A POINT 463 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTHWESTERLY 50.98 FEET; THENCE NORTHERLY 1,502 FEET; THENCE NORTHWESTERLY 106.01 FEET; THENCE WESTERLY 447.54 FEET; THENCE SOUTHERLY 200 FEET; THENCE WESTERLY 700 FEET; THENCE SOUTHERLY 1,215.25 FEET TO THE POINT OF BEGINNING, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21599-Crest Homes – Eric Peaden

Action Requested:

Minor Special Exception of the front yard setback from 25 feet to 20 feet in the RS-3 District (Section 403.A, Table 3). **LOCATION:** 19128 East 49th Street South **(CD 6)**

Presentation:

Eric Peaden, Crest Homes, 10710 East 84th Street, Tulsa, OK; stated this area is a residential tract and a continuation of Stone Creek Farms, Phase I, II and III. The subject property is one of the last two lots left in the area. All the other homes are at 20 foot building lines and he would like his home to be at the 20 foot building line also to match the surrounding area.

Mr. Van De Wiele asked Ms. Back how all the other homes were approved to the 20 feet, or were they ever approved at the 20 foot building line. Ms. Miller stated that it was just brought to staff's attention that this area was zoned RS-3 and RS-4. The Permit Office just recently caught the error so somewhere along the line the mistake was carried throughout the project until now.

Mr. White asked how the plat was approved with a 20 foot building line. Ms. Miller stated that she does not understand how the approval was given but that is where the error started.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke absent) to **APPROVE** the request for a Minor Special Exception of the front yard setback from 25 feet to 20 feet in the RS-3 District (Section 403.A, Table 3). The Board has found that the remainder of this neighborhood to have been built on a 20 foot setback. In granting the Special Exception the Board finds that it 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 6, BLK 2, STONE CREEK FARMS VILLAGE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21600-Crest Homes – Eric Peaden

Action Requested:

Minor Special Exception of the front yard setback from 25 feet to 20 feet in the RS-3 District (Section 403.A, Table 3). **LOCATION:** 4812 South 191st Avenue East (CD 6)

Presentation:

Eric Peaden, Crest Homes, 10710 East 84th Street, Tulsa, OK; stated that this request is identical to the previous case, BOA-21599.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Henke absent) to **APPROVE** the request for a Minor Special Exception of the front yard setback from 25 feet to 20 feet in the RS-3 District (Section 403.A, Table 3). The Board has found that the remainder of the neighborhood to have been developed on a 20 foot setback rather than a 25 foot setback. For this reason the Board has found that 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 15, BLK 2, STONE CREEK FARMS VILLAGE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

16901-A—Wallace Engineering – Jim Beach

Modification to a previously approved Site Plan (BOA-16901) for Phase 1 of a four phase Master Plan; Variance of the required off-street parking requirement from 264 spaces to 210 spaces for Phase 1 parking only in the RS-3 District (Section 1205.C).

Agenda Item #14 – Refund request.

This Agenda Item was approved in the motion for Agenda Item #10.

21545—Jim Thornton

Variance to allow a 2.25 feet x 7.66 feet 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 case was heard by the Board of Adjustment on March 26, 2013.

Agenda Item #15 – Report from Board Legal Counsel: Tulsa County District Court Case No. CV-2013-487, **an Appeal from Board of Adjustment Case No. 21545;** decided March 26, 2013 – Tulsa Hills Church of the Nazarene.

Mr. Mark Swiney stated this case was for the Tulsa Hills Church of the Nazarene. When the case was originally heard there were concerned neighbors that the sign would be on all night and would disturb them. The Board approved the request stipulating the sign were to be turned off at 8:00 P.M. Rev. Thornton appealed that decision to the District Court. Mr. Swiney appeared before the Judge in this appeal and the Judge stated that he thought the Board's 8:00 P.M. decision was unreasonably early to turn off the sign. Mr. Swiney worked with the church's counsel and the church requested a 10:00 P.M. turn off time. Mr. Swiney took the liberty of informally meeting with a couple of Board members regarding this case, and calling the concerned neighbor about the new proposed turn off time. They agreed to the new 10:00 P.M. turn off time for the sign. This case has been settled in the District Court for a new shut off time of 10:00 P.M.

Mr. Swiney stated that his supervisor, Ms. Janine VanValkenburg, recommended that in the future should there be a case that has been appealed and needs to be settled that he formally propose the settlement to the Board in open session, and receive approval by vote from the Board members making it a more formal appealed case settlement. Mr. Swiney stated that he would be happy to do this if it is what the Board requests.

* * * * *

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 2:32 p.m.

Date approved: 7/9/13

Frank X. Harris, Jr.
Chair