

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1138
Tuesday, April 28, 2015, 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 Van De Wiele White, Vice Chair	Tidwell, Secretary	Miller Moye Foster Sparger	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, April 23, 2015, at 9:53 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

Mr. Henke 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. Henke asked the applicants if they understood and asked the applicants what they would like to do. The applicants nodded their understanding.

MINUTES

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the **Minutes** of the April 14, 2015 Board of Adjustment meeting (No. 1137).

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UNFINISHED BUSINESS

21868—Joel Bein

Action Requested:

Special Exception to permit a food truck court (Use Unit 2) and an outdoor event venue (Use Unit 20) in the CH District (Section 710, Table 1); Variance of the allowable days for open air activities from 179 days to year round (Section 1202.C.1); Variance of the requirement that all motorized vehicles be parked on an all-weather surface (Section 222). **LOCATION:** 418 South Peoria Avenue **(CD 4)**

Presentation:

Ms. Moyer announced that an interested party in this case requested a continuance for this case via e-mail this morning. The interested party would like to have additional time to speak with the applicant about the parking issues.

Mr. Henke asked Mr. Bein to come forward and stated that the church would like to speak about parking issues. Mr. Henke stated that he knows Mr. Bein has not received all of the final approvals for the project and have been operating. Mr. Henke stated that he does not know what the church will be addressing in the way of parking issues.

Joel Bein, 2147 South Sandusky Avenue, Tulsa, OK; stated that he has been speaking with the church about what can be done. Mr. Bein stated that all that is required under Use Unit 20 per his application is 11 spaces, and that can be achieved in the front parking lot of the subject property. Currently the parking lot is gravel and that is the reason for the parking Variance request. He is confident that any issues can be worked through with the church. Mr. Bein stated that he has been working with the church about using the church parking lot that is located behind the subject property for additional parking.

Mr. Henke stated that there is a Special Exception request to permit the food truck park, and for the Board to be able to grant the Special Exception the Board would need to find that it is not injurious to the neighborhood. Parking and traffic issues would fall under that category.

Mr. Bein stated that he does not want to be injurious to the neighborhood either because they are trying to improve the neighborhood. The premiere weekend reception was wonderful. There were families and neighbors and everyone in attendance had a great time. Mr. Bein stated he is trying to build the food truck park up and make it a community spot, so he does not want to do anything detrimental to the neighborhood.

Mr. Henke asked Mr. Bein if he would be opposed to continue this case for another two weeks so there can further conversations with the church, or does he want to have the

case heard today. Mr. Bein stated that he has been working on this project long and hard and he would like to go forward as soon as possible. Mr. Bein stated that if the Board approves the requests today there is still weeks of work to be done to get ready for the grand opening. Mr. Bein stated he would like to have the case heard today.

Comments and Questions:

Mr. White stated that he was in attendance of the premiere Saturday and it was a great success regardless of legalities and permits. Mr. White stated that he realizes the applicant is only required to have 11 parking spaces and they do comply with, but there were a whole lot of cars there parking in areas other than the streets and the other side of the property. Mr. White stated that he does not know if the church is the only one who is going to be voicing objections or not. There is nothing against the application itself but this is an issue that is definitely going to come before the Board.

Mr. Bein stated that once the food truck is approved he plans on placing signs everywhere stating "Park Parking Only" for the subject property. Mr. Bein stated that he can reach an agreement with the church to use the back lot then that would give plenty of parking spaces with the parking on the street or lot.

Mr. White stated that people ususally lose their ability to read when they are in situations like Saturday's event. Mr. White stated that Mr. Bein has a good case to present to the Board, but beyond that it would be great to have an agreement with the neighboring property owners to use their facilities. Mr. Bein stated that Saturday's event was an exception because there were bands and it was open all day, but it will not be that way on a daily basis.

Mr. Van De Wiele asked staff if there were indications received from the church that there were other issues other than just the parking. Ms. Moyer stated the church did not identify what the issues are, but they did speak about the parking issues.

Mr. Van De Wiele asked Mr. Bein if it was his desire to reach an agreement with the church. Mr. Bein answered affirmatively. Mr. Bein stated that before the lease was signed with the property owner he wanted to address the church first so everything could proceed. Mr. Bein stated that he had spoke with the church again last week about using the back lot to avoid using the regular church lot. Mr. Van De Wiele stated that to him it sounds like reaching an agreement is necessary but there is not one in place currently, and it would make sense to continue this case to the next meeting.

Mr. White stated the additional parking is not one of the conditions of the application. Mr. White asked Mr. Swiney if that is something that needs to be added to the application. Mr. Swiney stated that if the Board feels parking needs to be addressed in the vote then it should be done.

Mr. Van De Wiele asked Mr. Bein if he thought he would be able to get the parking issues resolved in the next two weeks. Mr. Bein stated that he thought they could be resolved.

Interested Parties:

Milford Carter, 1228 East 5th Street, Tulsa, OK; stated he is the Senior Pastor of Sanctuary Avengelic Church. Mr. Carter stated that the church properties are contiguous to every area of the subject property and their event. The western and southern areas of the subject lot are bordered by the parking lots. Mr. Carter stated he has worked in the neighborhood for the last 15 years and all the meetings for the Pearl District and Sixth Street Task Force were held in the church. The church is definitely in the growth and development of the area. It is a very good thing that Mr. Bein is doing but the issue is the church wants it to be something that works for the church as well as it works for him. In regards to the event held over the weekend, the church parking lot was jammed and the area across the street was jammed, and that is wonderful. But the thing is it has to be mutually beneficial in the sense of time and any kind of compensation. In addition to the parking, Mr. Bein has spoke to the church about utilizing the church's kitchen which there has not been a determination arrived at. These are issues that the church would like to have resolved before the food truck park gets started. Mr. Carter stated that a mutual understanding can be worked out that is mutually beneficial to everybody. Mr. Carter stated that the food truck park is proposing to operate six or seven days a week, and if there is a funeral with 300 people in attendance and the food truck park is operating simultaneously that is going to be a problem. Mr. Carter stated that the thinks the church has ample space to make these things work. The church has a parking lot that is considerable and then there are three other lots next to the food truck park that are on the western side of the subject property that can be made available. Mr. Carter stated that they just need time to work it out and time to have an agreement that makes everyone continue to be good neighbors.

Mr. Van De Wiele asked Mr. Carter if he would be agreeable to a two week continuation. Mr. Carter stated that would be plenty of time. Mr. Van De Wiele stated that he thinks this case needs to be continued.

Josh Ritchey, P. O. Box 2065, Tulsa, OK; stated he is the property owner. Mr. Ritchey stated that, in his opinion, the issue is this is the future of Tulsa. This is what the world is going to be like. It is going to be crowded. People are going to have to learn to walk. If the church parking lot was roped and never used again people will have to figure it out. In his opinion, that if Mr. Bein is willing to run a business with the risk that people might only have 11 parking spaces, what is available on the street and what is available at Centennial Park or in neighborhoods all around, or running a shuttle from TU, as business owners they should be allowed to do whatever they want within the guise of running their business and parking be danged.

Mr. Van De Wiele stated that he agrees with Mr. Ritchey but that is why he asked the question of how important was the relationship with the church to this request. Mr. Van De Wiele stated that he heard the applicant does view it as important.

Mr. Ritchey stated that he believes the applicant views it as important because it is the path of least resistance. There are empty lots all over the subject area if the agreement

does not happen with the church. There is Endisco across the street and he spoke with the owners of adjacent lots, and the title company has a completely empty lot on 4th Street. There are plenty of options. Mr. Ritchey stated that he has no doubt they work it out in the next two weeks, therefore, he would ask that there be no continuance because the applicant really needs to get the business started. Time is very sensitive they cannot afford to have three, four, five weeks of nothing in the news about when they are going to have regular dates. Mr. Van De Wiele stated that he understands.

Comments and Questions:

Mr. Van De Wiele stated that he still thinks there needs to be a continuance in order to minimize the impact on the neighborhood.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **CONTINUE** the request for a Special Exception to permit a food truck court (Use Unit 2) and an outdoor event venue (Use Unit 20) in the CH District (Section 710, Table 1); Variance of the allowable days for open air activities from 179 days to year round (Section 1202.C.1); Variance of the requirement that all motorized vehicles be parked on an all-weather surface (Section 222) to the May 12, 2015 Board of Adjustment meeting; for the following property:

LT 1, 2, 3, 4 BLK 1, CENTRAL PARK PLACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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NEW BUSINESS

21881—Roy Johnsen

Action Requested:

Special Exception to permit off-street parking for Tulsa University on a lot other than the lot containing the principal use (Section 1301.D). **LOCATION:** SE/c of South Harvard Avenue & East 4th Street **(CD 4)**

Presentation:

Staff is requesting a continuance to May 26, 2015 to allow the case to be re-noticed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **CONTINUE** the request for a **Special Exception** to permit off-street parking for Tulsa University on a lot other than the lot containing the principal use (Section 1301.D) to the May 26, 2015 Board of Adjustment meeting; for the following property:

LT 11, 12, 13, 14, 15, 16, AND W/2 17 BLK 3, UNIVERSITY HGTS ADDN LESS AND EXCEPT A TRACT DESCRIBED AS BEG NW/C LT 11 BLK 3 THENCE E 12.2' THENCE SW 16.51' TO THE W LINE OF LT 11 THENCE N 11.13' TO POB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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OTHER BUSINESS

21876—Shamim Shahid

Action Requested:

Verification of the spacing requirement for a liquor store 300 feet from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3). **LOCATION:** 2634 North Martin Luther King Boulevard (CD 1)

REQUEST FOR REFUND:

This application was withdrawn by the applicant; applicant is requesting a refund for \$220.00.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the request for a **Refund** of \$220.00 because the application was withdrawn; for the following property:

BEG 395N & 33W SECR SE TH W131 N147.5 E131 S147.5 POB LESS N22.5 E131 THEREOF LESS E17 THEREOF SEC 23 20 12 .327AC, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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NEW BUSINESS

21875—Javier Herrera

Action Requested:

Special Exception to permit car sales (Use Unit 17) in a CS District (Section 701, Table1); Variance to permit open air storage and display of merchandise for sale within 300 feet of an adjoining R District (Section 1217.C.2). **LOCATION:** 8310 East 11th Street (CD 5)

Presentation:

Javier Herrera, 11624 East 27th Street, Tulsa, OK; the applicant was present but made no presentation because an interested party requested a continuance. Mr. Herrera agreed to the continuance.

Mr. Henke encourages Mr. Herrera to meet with the neighbors before the next Board of Adjustment meeting.

Interested Parties:

Stephen Hahn, 8323 East 12th Street, Tulsa, OK; stated that he is requesting a continuance on this case because he believes there were a lot of people in the neighborhood that were notified about this request. He received an e-mail from one of the neighbors who is on guard duty and cannot be in attendance today. His parents live in the neighborhood and own three properties are out of town and cannot attend today. He would like to request a continuance until the next meeting so all the Board members can be in attendance, and it would allow time for the neighborhood to get together. Mr. Hahn stated that he lives at 11th and Memorial, has a pizza shop at 11th and Sheridan, and he drove from Memorial to Sheridan on 11th Street and there are 17 car lots on that street.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **CONTINUE** the request for a Special Exception to permit car sales (Use Unit 17) in a CS District (Section 701, Table1); Variance to permit open air storage and display of merchandise for sale within 300 feet of an adjoining R District (Section 1217.C.2) to the May 12, 2015 Board of Adjustment meeting; for the following property:

LT 4 LESS BEG SECR TH N162.75 W138.10 S162.75 E138.17 POB BLK 2, FOREST ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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UNFINISHED BUSINESS

21855—Acura Neon Signs – Yoko Lam

Action Requested:

Variance to allow an electronic message center within 200 feet of an R District (Section 1221.C.2.c). **LOCATION:** 3515 South Harvard Avenue (CD 9)

Presentation:

Bob Feist, 3515 South Harvard, Tulsa, OK; stated he would like to request a continuance for his case so he could have all Board members present.

Interested Parties:

Lynne Tucker, 3136 South Florence Place, Tulsa, OK; stated this case has been going on for a long time and the neighbors have met with the church officials. There has been dialogue back and forth, and she is opposed to a continuance.

Michael Joyce, 3521 South Columbia Place, Tulsa, OK; stated he is before the Board as an interested party not just as counsel. He has rearranged his schedule today so he could attend the hearing. This case been continued once before and he does not believe there is anything more the applicant can say to the neighbors or present to the Board. He would request the hearing proceed today if possible.

Comments and Questions:

Mr. Van De Wiele stated that typically the Board defers to these requests.

Mr. Henke stated this is a Board created issue with a member not being present, and in all fairness to the applicant the Board would want to accommodate the applicant.

Mr. Van De Wiele stated that the people that are in attendance and the people who have sent in e-mails and letters, all of those are in the Board's agenda packet. Everyone is free to come back on the 12th or let the e-mails speak on their behalf.

Ms. Tucker asked if a person is not physically present at a meeting to interact with the applicant, does that dilute the interested parties approval or disapproval. Mr. Henke stated that the Board receives all of the correspondence and it is entered into the packets and it is part of the record, and the Board does read them. This information is taken into account when decisions are made by the Board.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **CONTINUE** the request for a Variance to allow an electronic message center within 200 feet of an R District (Section 1221.C.2.c) to the May 12, 2015 Board of Adjustment meeting; for the following property:

LT 40 & LTS 1-4 BLK 4 EISENHOWER ADD RSB,EISENHOWER ADD RSB
L38&39&41-43&W/2L44 ALBERT PIKE SUB, ALBERT PIKE SUB, CITY OF TULSA,
TULSA COUNTY, STATE OF OKLAHOMA

21845—A-MAX Sign Company – Lori Worthington

Action Requested:

Variance to allow an electronic message center within 200 feet of an R District
(Section 1221.C.2). **LOCATION:** 6110 South Lewis Avenue (CD 2)

Presentation:

Brian Ward, 9520 East 55th Place, Tulsa, OK; stated that since the last time this case was before the Board the issues, i.e., the building lighting and the sign lighting on the west side of the building, have been discussed and he has met with the home owner's association a couple of times. Mr. Ward stated that Code Enforcement officials have been involved, and A-MAX has been to the subject site with a light meter. The determination has been made that the building lighting exceeds what code allows. He has contacted CVS and they have asked A-MAX to do something with the lighting. He informed CVS that the company cannot do anything with it electrically because they are not licensed to do that, and asked CVS to contact their electricians. It has come back to A-MAX just this morning that the electricians have not done anything with the lighting. CVS asked A-MAX to block out some of the lighting with paint, and a few moments ago Mr. Ward stated he was informed there is a crew on site painting out every other light. Mr. Ward stated, that in his opinion, he does not think the paint will get the lighting where it needs to be, even though it is going to block some of the light. Mr. Ward stated that he believes a lot more can be accomplished by putting black film on every other fixture. There have been some attempts to bring things into compliance, i.e., the lighting. The electric for the lighting on the west side of the building has been disconnected.

Mr. Van De Wiele asked Mr. Ward if there has ever been consideration given to moving the subject sign to the Lewis Avenue side. Mr. Ward stated that the whole sign situation is that the sign on Lewis, because the CVS sign blocks the Chase Bank sign, has an agreement attached to it that one of the panels on that sign would advertise Chase Bank. The problem with that is, if there were a Chase Bank panel on the CVS sign it would be considered off premise advertising. He does not know where the discussions are on that proposal.

Interested Parties:

Cindy Trankel, 6137 South Zunis Avenue, Tulsa, OK; stated she thinks she is the closest resident to the area because she lives immediately next to the CVS building. The only concession that CVS has made, that she is aware of, is the lighting issue because they have disconnected the CVS Pharmacy wall sign that faces west which faces onto her property. She does not trust CVS at this point, because there is nothing to preclude them to connecting that light tonight. She knows there was a crew on the

site this morning at 11:00 A.M. white washing the light, but that is not going to help if only every other light is white washed. It is her understanding that the whole Variance issue is the regarding the message center. Ms. Trankel stated that she has not changed her mind and she is here to ask the Board to disallow this Variance. Per the Board's request the sign was turned on for about two weeks, and it was a very simple message display. Her concern is that the light is visible from her master bedroom and from her garage area downstairs because it will be on 24 hours a day, seven days a week. She believes that since CVS is spending money on the message board it will say more than "Welcome to CVS" like it has. These signs are hideous signs and it is their right to advertise but the code was written for a reason, and she does feel it is conducive to residential living to look at that sign 24 hours a day.

Michael Joyce, 3521 South Columbia Place, Tulsa, OK; stated he is before the Board as a concerned citizen not as a paid counsel or representative of a client. He handles real estate transactions all over the place for a living; and frequently part of the transaction is to seek some type of Variance or Special Exception for unusual circumstances and hardships that allow the business or applicant to proceed with something because of an undue hardship. He has represented a lot of box retailers around the country, and whether it is restaurants or retailers there is always a special analysis of the site location before the trigger is pulled to build a building. He assures the Board that his clients would never build if a little digital sign create such a hardship for them that their business would not succeed. He does not think CVS made the decision to build on the subject lot and all of a sudden realize they cannot operate because of a hardship. The code is in place for a purpose and it is going through revisions currently. He is concerned about Tulsa and its welfare and the direction the city is going, and that is why he is speaking on this matter. Mr. Joyce stated that he teaches at a local university and there are students that attend the university that tell him how ugly the City of Tulsa is and that it continues to deteriorate. The students mention signage, they mention poles, they mention wires, and look forward to leaving the city. This Board can start taking the position that unless there is truly an exceptional hardship the Variances or Special Exceptions will not be granted. Mr. Joyce stated that he has reviewed the Code very carefully in preparation for this meeting regarding the church sign, but in the applications for Variances the Board has the authority to grant the Variance if they find by reason of extraordinary and exceptional conditions and circumstances which are peculiar to the land, structure, or building involved that the literal enforcement of the terms of the Code will result in an unnecessary hardship. Also, that such extraordinary or exceptional condition 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 of the Comprehensive Plan. Mr. Joyce stated that Ms. Trankel is present, objecting, because she can see the sign in her window. That party was there long before the CVS came there, and the request is injurious to her property. It is injurious to the public good. There are digital signs; there are changing signs; there are motion signs that are in the news all the time for distracting drivers by their motion. Drivers are also distracted by phones and by communications. People do not need one more distraction in an area where there is heavy traffic and pedestrians that could be

run over or in accidents. There is nothing unique about that location. Every commercial and office property in that corridor, that same use district, has the same limitations. If they are within 200 feet on a straight line arrow from a residential district the code prohibits it. There is nothing unique about the CVS property. It is not a wedge or a postage stamp or something geographic. It is the same as every other property that wants a digital sign. If the Board grants for CVS then where does it stop? There is a CVS on every corner. There is a CVS by the church at 41st and Harvard. There is a CVS at 21st and Harvard. Where there is a CVS there is always a Walgreens. There is a Walgreens at 71st and Lewis which makes them about a mile apart on the same hard corner with a similar situation. There is a Walgreens at 31st and Harvard. There is a Walgreens at 15th and Lewis. If this Board grants these Variances, not because they are necessary, not for any other reason but because somebody does not show up to object, but for whatever reason it will create a worse situation for our City and pretty soon Tulsa is Detroit. Mr. Joyce stated that he does not want Tulsa to be a Detroit. He loves Tulsa. He grew up here. He wants to stay here. He does not want to be like the TU students that are going to leave because it is an ugly place to live. He wants Tulsa to become a great place to live. The Board of Adjustment can help people like Ms. Trankel, and citizens that voice their opinion, to bring Tulsa back. Truly, there has to be flexibility in the Code but where it is required and where it is allowed. Mr. Joyce stated that he does not think this application satisfies one of the required findings for a Variance.

Rebuttal:

Brian Ward came forward and stated that the only thing he did not mention earlier is that CVS has agreed to operate the message board only during hours of operation which would be early A.M. until 10:00 P.M.

Comments and Questions:

Mr. Henke stated that Mr. Joyce made some good points. There is a pollution issue with the signs and power lines. Mr. Henke stated that when CVS purchased the property they knew how it was zoned and knew that it was within 200 feet of a residential district, and that the Code does not allow that type of sign they are requesting today without some relief. Mr. Henke stated that he agrees that it does not reach the level of a valid hardship. Mr. Henke stated that there is an enormous amount of light pollution in the area at night. Mr. Henke told Mr. Ward that he appreciates all his hard work on this case. Mr. Henke stated that he cannot support the application.

Ms. Snyder stated that she has actually voted against a business on a similar project, for the same reason that the signs are everywhere. Ms. Snyder stated that the signs she has voted in favor of are for churches that want to advertise to the public regarding church activities, but there were no protestants. Ms. Snyder stated that in this area it would be too hard to deny any other company if this sign were approved. Ms. Snyder stated she cannot support this application.

Mr. Van De Wiele stated that this message center may be the least light polluting source on the CVS property, but it is certainly adding to the problem that until three

hours ago does not seem to be in the process of being corrected. Mr. Van De Wiele stated that the Board knows the other lights are in violation of the Zoning Code, and if this message center were on the other side of the property where the building were blocking it that would be the type of circumstance where he could see justifying something like this request. Mr. Van De Wiele stated that based on the location he cannot support the application.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, White, Van De Wiele "aye"; no "nays"; no "abstentions"; Tidwell absent) to **DENY** the request for a Variance to allow an electronic message center within 200 feet of an R District (Section 1221.C.2); for the following property:

LT 1 LESS N10, MICHAEL'S GLEN RESUB L2-4 OF RESUB L1 PECAN ACRES, PECAN ACRES, PECAN ACRES RESUB L1, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

18607-C—Rob Coday

Action Requested:

Amendment to a previously approved site plan (BOA-18607-B) for a church use in the RS-3 District to permit site and building expansions. **LOCATION:** 8707 East 51st Street **(CD 7)**

Presentation:

Sherry Duvall, 9131 East 77th Street, Tulsa, OK; stated she represents Rob Coday Architect.

Mr. Henke asked Ms. Duvall what this expansion was for. Ms. Duvall stated this is an amendment to a previously approved site plan for church use.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the request for an Amendment to a previously approved site plan (BOA-18607-B) for a church use in the

RS-3 District to permit site and building expansions, subject to conceptual plan 5.26. The Board has found that the request for the proposed modifications are compatible with and non-injurious to the surrounding area and meets the previously granted Board relief, and meets the zoning requirements per code; for the following property:

LT 18 BK 1; LT 17 BK 1; LT 16 BK 1; LT 15 BK 1; LT 19 BK 1, REGENCY PARK WEST, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21874—Robert Rainbolt

Action Requested:

Appeal of an Administrative Official that a home occupation is operating on the subject lot (Section 402.B.6). **LOCATION:** 7116 East Jasper Street (CD 3)

Presentation:

Robert Rainbolt, 7116 East Jasper Street, Tulsa, OK; stated that he was cited for operating a business out of his home but he is not doing so. He has his wrecker parked at the house because he hauls for law enforcement and he has 15 minutes to be at wreck site anywhere in Tulsa. Mr. Rainbolt stated he does have a business located at 1455 North Fulton where he directly takes the vehicles. The wrecker is there only while he is sleeping and is out of the street.

Mr. Van De Wiele asked if it was the Tulsa Police Department he hauled vehicles for. Mr. Rainbolt stated that he also hauls for Tulsa County and Oklahoma Highway Patrol. Mr. Van De Wiele asked Mr. Rainbolt after he receives a call to pick up a vehicle where is the vehicle taken. Mr. Rainbolt stated that he takes it to his business on North Fulton.

Interested Parties:

Dana Goldman, City of Tulsa Neighborhood Inspections, 175 East 2nd Street, Tulsa, OK; stated the department received a complaint on the subject property on March 12th regarding trash and debris. On her inspection of the property there was a wrecker parked in the driveway and there were nuisance violations resulting in the property being notified for various violations. Among the citations was a violation for a vehicle not customary to a residence. Ms. Goldman stated she posted the property and received a call from Mr. Rainbolt on March 17th, and they discussed the issue of the wrecker. He advised her at that time that he has a business located on North Fulton and that he parks the wrecker at the subject location when he sleeps because of the 15 turn around for law enforcement response. Ms. Goldman explained to Mr. Rainbolt that by doing this he is creating a satellite office for his wrecker service because he is taking calls and being dispatched from the subject property. Ms. Goldman stated that she has been by the subject property three times and each time the wrecker was at the subject location including today. Ms. Goldman stated that she does not know what Mr. Rainbolt's hours of operation are but if he receives a call from law enforcement at 2:00 A.M. then he is firing up the wrecker at that time.

Mr. Henke asked for a picture of the wrecker and Ms. Goldman presented one showing the wrecker parked in the driveway with another vehicle parked partially on the grass and partially on the driveway of the subject property.

Mr. Henke asked Ms. Goldman if the wrecker extended beyond the driveway. Ms. Goldman stated the wrecker does not obstruct the street.

Mr. Henke stated there was a similar case before the Board. Mr. Henke asked Mr. Rainbolt if he was aware that he could not park vehicles on the grass without relief from the Board, and generally that relief is not granted. There was no response from Mr. Rainbolt.

Mr. Van De Wiele stated that he has the same concern about this case as he did with the similar case. Mr. Van De Wiele stated that he does not know the difference between him driving his car home and receive a phone call from a client asking to have a meeting, that does not constitute a home office to him. Mr. Van De Wiele asked if anything had changed between this case and the time before for the similar case. Ms. Goldman stated that it has not.

Ms. Miller stated that staff had discussions about this case, and noted that in the code update there will be regulations about commercial trucks of a certain size in residential districts. So a situation like this will be addressed in that manner but as far as where the Board is today they are in the same place as before.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **UPHOLD** the Appeal of an Administrative Official that a home occupation is operating on the subject lot (Section 402.B.6) finding that there is not a home occupation at the residence located at 7116 East Jasper Street; for the following property:

LT 10 BLK 15, VAL-CHARLES ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21877—Richard Morgan

Action Requested:

Special Exception to permit required parking on a lot other than the lot containing the principal use (Section 1301.D). **LOCATION:** 17751 East Admiral Place **(CD 6)**

Presentation:

Richard Morgan, 7798 East 24th Street, Tulsa, OK; stated he represents Aberdeen Dynamics. They own two pieces of property at the corner of Lynn Lane and Admiral. The subject area has a new warehouse constructed on the property and the company applied for a permit to install a small machine shop inside the warehouse which created the situation of additional parking. The company has increased the parking lot for approximately 180 vehicles for the existing building on the corner. Aberdeen is requesting to allow the employees that work in each of the buildings, and go back and forth during the day, to be able to park on the west side.

Mr. Henke asked Mr. Morgan if he was opposed to executing a tie agreement for the two properties. Mr. Morgan stated that a tie agreement could be done.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the request for a **Special Exception** to permit required parking on a lot other than the lot containing the principal use (Section 1301.D), subject to conceptual plan 8.8. This approval is subject to a tie agreement being executed between the subject property and the lot immediately to the west of the subject property in so far as they are both utilized by the same company. 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 BLK 1, THE PLAINS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21878—Anthony Smith

Action Requested:

Special Exception to permit a tent revival (Use Unit 2) in the CH District for a period of 21 days in June, July, or August in the years 2015, 2016, and 2017 (Section 701, Table 1). **LOCATION:** 5260 North Peoria Avenue **(CD 1)**

Presentation:

Anthony Smith, 8828 N.W. 121st, Oklahoma City, OK; stated the location will be new to his organization, but he has held tent revivals for 15 years. This will not be a 21 day tent revival but only for ten days. The 21 days requested allows him to set up and take

down the tent and equipment. There are only four or five businesses located in the nearby shopping center and they are on the south end of the complex.

Mr. Van De Wiele asked Mr. Smith if he was requesting for 21 days for each of the three months listed. Mr. Smith stated that he was not. The request is for 21 days in either June or July or August.

The tent will have the major thoroughfare and the sound system will also be facing the traffic. The City of Tulsa will come out for an inspection and he works closely with the Fire Department. The number of port-o-johns is based on the number of people in attendance, and they will be placed on the north side of the tent. The parking will be on the south side of the tent going northward.

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 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the request for a **Special Exception** to permit a tent revival (Use Unit 2) in the CH District for a total of 21 days in June, July, or August in the years 2015, 2016, and 2017 (Section 701, Table 1), subject to conceptual plan 9.12. 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:

E. 430' RESERVE-A-LESS E. 130' N.180.01', SHARON HGTS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21879—Eller & Detrich – Lou Reynolds

Action Requested:

Variance of the allowed coverage of the required front yard in the RS-3 District from 34% to 38% (Section 1303.D). **LOCATION:** 1332 East 35th Street **(CD 9)**

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated the subject property is in the middle of the block between Quincy and Peoria, and the property backs up to the Consortium Center. The house is currently under construction and the driveway will go straight into the garage with no flared out sides, about 19 feet wide. The lot is 50 feet wide and typically it would be 60 feet wide thus making the request for 38% for the all weather material. The hardship is the fact that the lot is 50 feet wide.

Mr. White stated that he is concerned about the hardship because 2 ½ years ago Mr. Reynolds came before the Board requesting the lot be reduced from 60 feet down to 50 feet. Mr. Reynolds acknowledged that he had done that. Mr. Reynolds stated that by doing so made the lot consistent with what is in the neighborhood. Mr. White stated that he has a little trouble with a self imposed hardship but he has no problem with the application. Mr. Reynolds stated that he does not believe it is self imposed because it is a standard width and the driveway is 19 feet wide with a standard two-car garage which is typical of houses. Mr. Reynolds stated that he agrees with Mr. White in that it does have a self imposed concept.

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 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the request for a **Variance** of the allowed coverage of the required front yard in the RS-3 District from 34% to 38% (Section 1303.D), subject to conceptual plan 10.18. The Board has found that the lot at 50 feet in width is consistent with lot widths in the neighborhood, and the driveway coverage is typical of what is found for properties and homes this size, and the Variance from 34% to 38% to be justified based on those circumstances. 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:

W/2 LT 7 BLK 3, OLIVERS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21880—Matt King

Action Requested:

Variance to reduce the required south side yard setback from 35 feet to 5 feet (Section 403.A, Table 1); **Variance** to reduce the setback from the centerline of East 15th Street from 70 feet to 40 feet (Section 403.A, Table 1); **Variance** to increase the building height from 35 feet to 40 feet (Section 403.A, Table 1) to permit a three unit multi-family structure. **LOCATION:** 1445 South Carson Avenue **(CD 4)**

Mr. Van De Wiele informed the Board members that he was contacted by an interested party on this case. This party left a voice mail at work and Mr. Van De Wiele has not spoken to that party. Mr. Van De Wiele does not believe that to be a conflict of interest that would require recusal.

Presentation:

Matt King, 1513 East 15th Street, Tulsa, OK; stated this property has been before the Board before and it appears there are very few if any objections so the neighborhood concerns were apparently satisfied. The hardship is the setback requirements. Initially this case was before the Board for four units and it is now three units. The building has also been sat back a little farther from the street. The proposed building will be two bedroom units. A lot of the concerns prior to today was the traffic generated on the street, and it is not anticipated to be a problem. If there are visitors it would be no different than anyone else living in the neighborhood. Mr. King had a concept drawing placed on the overhead projector to show concept design. The intent is to design a building that is compatible with the neighborhood. The concept building will be three stories and the actual building will be no more than three stories. The existing retaining wall on 15th Street will be utilized.

Mr. Henke asked Mr. King if he met with the neighbors. Mr. King stated that he personally did not on this particular design.

Mr. Henke asked Mr. King about the parking for the proposed building. Mr. King stated the building will have rear parking garage for two cars. The cars will be pulled into the garage from the alley. The units have been limited to two bedrooms just so there cannot be a family of five living there with the possibility of four or five cars for the one household.

Mr. Van De Wiele stated that he understands the owner does not want to be tied to the exact print that is on overhead projector, but conceptually is it something similar? Mr. King stated the previous design was a box and that is not being done in this design because the intent is to pick up some of the elements of the neighborhood.

Mr. King stated this is not an inexpensive proposition and Mr. Menge does not want to go through any great expense until he has the Board's approval. Mr. King stated that the image on the overhead projector is let the Board know that Mr. Menge is attempting to pick up elements from the neighborhood. Each one of the facades is made up a little differently so there will be some unique characteristic feature about each unit. The concept drawing is to show the Board that the building will not be a big box but will be characteristic of the neighborhood.

Interested Parties:

Fred Menge, 1441 South Carson, Tulsa, OK; stated he did speak with the neighbors and the immediate neighbors are in favor of the building. The Riverview Home Owners

Association is not in attendance today so he believes they are happy with the smaller units.

Mr. Henke asked Mr. Menge if he had met with Mr. Demetrius Bereolos and if Mr. Bereolos is supportive. Mr. Menge stated that he has met with Mr. Bereolos and he believes Mr. Bereolos is supportive by the fact that he is not in attendance today.

Comments and Questions:

Mr. Van De Wiele asked staff if the words "archtiectural style" can be used in the motion if it is approved. Ms. Miller stated that if this is approved it then goes to the building permit office and they do not do disgressionary review, so they will not know how to deal with that type of terminology.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the request for a **Variance** to reduce the required south side yard setback from 35 feet to 5 feet (Section 403.A, Table 1); **Variance** to reduce the setback from the centerline of East 15th Street from 70 feet to 40 feet (Section 403.A, Table 1); **Variance** to increase the building height from 35 feet to 40 feet (Section 403.A, Table 1) to permit a three unit multi-family structure, subject to conceptual plan 11.16 more specifically with the two-car per unit rear loading garage. This lot with the existing setbacks is not able to be developed and that is the hardship for this case. 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 36 BLK 2, CARLTON PLACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21882—Brian Casement

Action Requested:

Special Exception to permit storage of asphalt millings Use Unit 2) in the AG District (Section 301, Table 1). **LOCATION:** SW/c East 11th Street & South 193rd East Avenue (CD 6)

Presentation:

Ron Egge, Sherwood Construction, 9950 East 77th Street, Tulsa, OK; stated the asphalt millings are a by-product of construction. They become a green product when they are reused as a sub-grade material on the development of a parking lot. The owner of the subject property is going to develop the lot later with a time frame

unknown. He would like to stockpile the asphalt millings so he can develop the subject site.

Mr. White asked Mr. Egge what he meant by the term "stock pile" and what was physically being looked at. Mr. Egge stated that there will only be about half of the product placed on the property than originally planned. Originally the plans were to have a an area of 100'-0" x 100'-0" x 6'-0" high, and now it will be about half that material.

Mr. White asked Mr. Egge if the material would be open and exposed. Mr. Egge answered affirmatively. Mr. Egge stated that asphalt material will crust over and will get hard. There will be a silt fence placed around the millings. The surface does not erode because it is a gravel base.

Mr. White asked Mr. Egge if there was an estimated time frame for the storage of the millings. Mr. Egge stated the land owner has never indicated when he plans on developing the lot but has said he will use the material in the next five years.

Mr. Van De Wiele asked Mr. Egge if the owner would be using the asphalt millings on the subject property site. Mr. Egge answered affirmatively.

Mr. Van De Wiele stated that he will not approve this on an unlimited time basis, but if there is a five year time limit placed on the approval what will happen at the end of that time limit? Mr. Henke stated the applicant can come back before the Board and request approval for more time.

Interested Parties:

Clarence Leonard, 19105 East 11th Street, Tulsa, OK; stated that he lives across the street from the subject proposed site. Mr. Leonard stated that several people in the area do not know about what is going on because he contacted them. Mr. Leonard stated he bought his property for the feed store about 15 months ago and the feed store has been at its location since 1956. His residence is probably the only residence that is within touching area of the subject property. He spends 12 hours a day at his store and then walks to his home so he spends all his time in the area. He opposes this request for several reasons. He has seen asphalt storage places and once they are allowed people want to vandalize the property and are usually unkempt. Currently the subject property does not drain. The applicant has stated the product is a green product and that it does not move but it does move. There is a car lot directly east of the subject property and those owners are concerned about needing the clean the cars on a regular basis because of the dust. Mr. Leonard stated that his wife has a serious asthma problem and the wind in the area is always strong. Mr. Leonard stated that he also has a nursery facility at the feed store and this will mean that he will be getting dust on the plants. He also has some expensive horses on his lot and he does not want the horses to develop any respiratory problems. Mr. Leonard stated there is already a traffic issue at the corner because it is only a two lane road. There is already a water runoff issue because he does get flooded so if the millings do compact on the subject lot where will

the water drain because it currently runs across his property. Mr. Leonard stated that he currently is having septic issues and hopefully this will not compound the problem that exists. Mr. Leonard stated that he knows there has not been any tests on the soil and how it percolates. He has a water well in the back of his property and he does not want any contaminates coming off the asphalt millings and draining into his water well. Mr. Leonard stated that he knows there are several other health issues and he knows that Sherwood Construction currently has a property north of the subject lot that gives them the opportunity to store the asphalt millings. The subject property is currently zoned AG and he has never received a notification from anybody for rezoning the property. Mr. Leonard believes all the people in the area being led astray and believes that if the people west of 11th Street were aware of this they would probably be in attendance today to protest. He and his customers will be the ones that receive the direct impact if this request is approved. Mr. Leonard stated that he went to look at a site located in Claremore and those millings had been left there about eight years, and after they left the site the gate was removed and it ended up being a place where kids hang out and a place for trash. Mr. Leonard asked the Board to oppose this request.

Mr. White asked Mr. Leonard how deep the limestone is in the area. Mr. Leonard stated that it is probably four feet. The lot on the corner was purchased by the previous owner of the feed store and they hauled in approximately three feet of sand and gravel in an attempt to make the land perc. The land is not going to perc, so basically there will be water draining everywhere in the area. Mr. Leonard stated that he understands the applicant says he is only going to do a two or three foot pile with a silt fence but he has seen silt fences deteriorate in a matter of months and then they are laying on the ground. Mr. Leonard stated this request will decrease his property values and he is not willing to take a hit on his property. His property is part of his investment so he is asking the Board for a little consideration.

Mr. White asked Mr. Leonard how long he has been in the area. Mr. Leonard stated that he has worked at the feed store for 45 years but has owned it for 15 months. Mr. White asked Mr. Leonard if he remembered what the corner used to be called. Mr. Leonard stated that it used to be called dead man's corner. Mr. Leonard stated that he was born and raised there and hates to see this operation go in because there are other places that are better suited for that type of operation.

Mr. Swiney asked Mr. Leonard if he stated that he lives on the property. Mr. Leonard stated that the feed store is on the west side and his residence is on the east side.

Rebuttal:

Ron Egge came forward and stated that Sherwood Construction is not located six miles north of the subject property, they are located at 1640 South 101st East Avenue in Tulsa. Sherwood Construction has sold their property located in Catoosa so that is not a viable site. If Mr. Leonard was referring to where asphalt millings are located, that site is not a Sherwood Construction site. The asphalt millings site that is located by the Verdigris River, that site is a Department of Transportation site. Sherwood Construction does not own any millings location.

Mr. Van De Wiele asked Mr. Egge what the millings were going to be used for and why they need to be stored on the subject property for such a long time. Mr. Egge stated that it is a cost efficiency deal. When a sub-grade for a parking lot is done this material can be used at a less expensive cost to the owner. The land owner of the subject property stores these millings all over the nation.

Mr. Henke stated that the subject property is AG zoned, and he may do this all over the nation but he cannot just erect a store on the land because of the zoning. Mr. Egge stated the land owner just purchased the property less than a year ago, and he has a planned commercial property development. Mr. Henke stated that it may be a great plan but it may not come to fruition. Mr. Henke stated that Mr. Leonard's point, with the property zoned AG, he is betting that it will not happen.

Mr. Egge stated the material is an asphalt material off a roadway so to make a statement that it is a contaminant, there is nothing hazardous about asphalt millings.

Mr. Van De Wiele asked if this was old roadway that has been ground up. Mr. Egge stated that it is ground into small pellets, it looks like gravel chips. The material is less than one inch, which is sub-grade material that is placed under a parking lot because it is less expensive. It is a great product because a person is not purchasing the aggregate they are paying for the trucking.

Mr. White asked if there was a base or a liner that is placed under the millings so the chemicals do not drain into the ground. Mr. Egge stated that it is just like a highway. There is nothing placed down on the ground when asphalt is laid. There is nothing hazardous about asphalt. There is nothing hazardous about the asphalt millings. The asphalt millings are used all over. The County uses the asphalt millings regularly on county roads, in fact, many millings have been given away to the county.

Mr. White asked Mr. Egge what the projected size of the stock pile would be. Mr. Egge stated the stock pile would be approximately 100'-0" X 100'-0" X 5'-0" high.

Brian Casement, P. O. Box 688, Owasso, OK; stated he is a Civil Engineer with Casement Engineering. He has had two properties contact him, one by e-mail and one by telephone, this morning quizzing what was going to be done. As far as the utilities, everything is there. The City of Tulsa is going to be constructing a new sanitary through the area within the next few years. As far as percolation, what is happening on the adjacent properties is a flip of the coin until somebody does an actual perc test. The millings are coming from I-244 and everybody has been driving on asphalt for years. Asphalt has been around for years and there is nothing contaminant about it.

Mr. Egge came forward. Mr. Egge stated that a representative of the land owner for the property to the north called him and asked what the material was to be used for. The land owner of the subject property has stated that he is going to fence the property now that he owns it. Mr. Egge stated that he cannot say when or what type of fence but the

land owner has made the statement that he will fence the property because he does not want people dumping trash on the property.

Mr. Henke asked Mr. Egge for the landowner's name. Mr. Egge stated that he could not remember the name.

Clarence Leonard came forward and stated that he spoke to the land owner of the subject property last year because he requested a quote for a fence around the property. At that time, basically, he said it was too expensive to fence the property. Mr. Leonard stated that he does not believe there will be any fence going around the property. Mr. Leonard stated there is an odor from asphalt and that cannot be denied, and they have not provided any tests proving that it is not a hazard or that it cannot leech out. Mr. Leonard stated that he doesn't think the people speaking today would want a pile of asphalt across from their front door so that it can be smelled or get the dust from it.

Mr. Egge stated the asphalt is not a hot mix asphalt. There is a smell to hot mix asphalt because everyone knows what that smells like. This is cold asphalt millings from a roadway surface. It is aggregate encapsulated in asphalt. Basically, it is called asphalt concrete.

Ms. Snyder asked Mr. Egge about the asphalt condition in the summer when it is a 100 degrees. Mr. Egge stated it is just like an aggregate pile. It is a roadway surface. The roadway does not melt in the summer time and this reacts the same way. The reason he said it crusts over a little bit because when it does get hot it will adhere to each other. Asphalt does not become liquid until it is 500 degrees. Asphalt is a petroleum product.

Ms. Snyder asked Mr. Egge if the product were hot from summer heat and it started to rain would anything run off onto the land. Mr. Egge stated that it would not have run off. That would like saying the asphalt road that people drive on melts and runs away. This is the same asphalt material that people drive on. The asphalt is the smallest percent of content. Asphalt concrete has very little asphalt content to it because it is mostly aggregate sands. There is not a lot of the asphalt material in it.

Comments and Questions:

Ms. Snyder asked Ms. Moyer about the Section 1202.C.1 that she quoted in the staff report. Ms. Moyer stated that this would be considered open air therefore Section 1202.C.1 would be applicable in this situation.

Mr. Van De Wiele asked if the applicant would need a Variance if Section 1202.C.1 would be applicable. Ms. Moyer stated that the applicant wanted to store the materials all year round, and a Variance was not requested and not advertised.

Mr. Van De Wiele stated that this sounds like an asphalt millings dump for a five year period. There is no real mechanism that if five years comes and goes and no development is built, who will pay to scrape the asphalt millings up and haul them

away? If this were a scenario where there are permits, construction plans and things were being done in a logical sequence then maybe he could understand, but this is an agriculturally zoned property and this seems odd to him.

Mr. White stated that this reminds him of the concrete plant on 11th Street before the Board many years ago, about three miles away from the subject property. It went in under somewhat similar circumstances and it was to be a temporary basis but became forever. He is concerned that this type of usage almost looks like spot zoning.

Mr. Van De Wiele stated that if the Board were to approve this today, they already know it will be there longer than 179 days because the applicant has told the Board that.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **DENY** the request for a **Special Exception** to permit storage of asphalt millings Use Unit 2) in the AG District (Section 301, Table 1); for the following property:

**BEG NEC NE TH S394.32 NW661.88 N394.32 NE662.01 POB SEC 12 19 14
5.662ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

21888—Richmond Construction Company – Levi Richmond

Action Requested:

Minor Variance of the required front yard setback from 30 feet to 25 feet (Section 403). **LOCATION:** 2807 South Florence Avenue **(CD 4)**

Presentation:

Levi Richmond, Richmond Construction Company, 395290 West 2400 Road, Ochelata, OK; stated when the addition was developed the houses could be set back at 25 feet on the front. The house on the north side of the subject property is at 25 feet and the house on the south side of the subject property is at 30 feet. There are several houses in the addition that are set back at 25 feet. The house does not set parallel to the street because the street curves and the 25 foot setback would only be for a corner of the addition.

Mr. Van De Wiele asked if the 25 foot setback was measured from the property line. Mr. Richmond answered affirmatively. Mr. Van De Wiele asked if the five feet in question would only involve the garage. Mr. Richmond answered affirmatively. Mr. Richmond stated that if the garage had to be cut down to 16 feet it would be difficult to get two cars into the garage.

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 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the request for a **Minor Variance** of the required front yard setback from 30 feet to 25 feet (Section 403), subject to conceptual plan 14.8. The Board has found that the unusually shaped lot justifies the Minor Variance requested as well as other properties in the area being built at the 25 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:

LT 6 BLK 6, LAKEWOOD ADDN AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 3:09 p.m.

Date approved: _____

5/12/15



Chair