

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1150
Tuesday, October 27, 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 Flanagan Snyder Van De Wiele White, Vice Chair		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, October 22, 2015, at 9:33 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Flanagan, VanDeWiele, White "aye"; no "nays"; Snyder "abstaining"; none absent) to **APPROVE** the **Minutes** of the October 13, 2015 Board of Adjustment meeting (No. 1149).

UNFINISHED BUSINESS

21953—Eller & Detrich – Lou Reynolds

Action Requested:

Modification of a previously approved site plan (BOA-13218) to permit expansion of an existing church. **LOCATION:** 3819 South Lewis Avenue East **(CD 9)**

Presentation:

The applicant has withdrawn this case.

Interested Parties:

Philip Ansteth, 3873 South Atlanta Place, Tulsa, OK; asked the Board what will happen to this case now that it is withdrawn. Mr. Henke stated the record will be preserved on this case and the case is closed. If the applicant would like to reapply for relief from the Board at a future date they may do so. Any exhibits, letters, etc. will be in the permanent record and they would be available for any rehearing. Mr. Ansteth stated that he presented some exhibits to the staff in regards to this case and asked if they would become a part of the record. Mr. Henke stated they would be stamped in and they will become a part of the case file.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

PRT SW SW BEG 457.5E & 25S NWC SW SW TH S169 W457.45 S305 E522.96 N305 W33.11 N169 W32.5 POB SEC 20 19 13 3.76AC,SOUTH LEWIS HILL ADDN, BROADMOAR ADDN, HIGHLAND PARK EST, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21966—APAC – Central

Action Requested:

Special Exception to permit a quarry in the IM and AG Districts (Section 301 & Section 901). **LOCATION:** South of the SW/c and the SE/c of East 36th Street North & North 129th East Avenue (CD 3)

Presentation:

James Weger, 15 East 5th Street, Tulsa, OK; stated that he was just brought into this case last week by APAC after the previous hearing. He has tried to reach out to everyone that is involved and advise them that there would be a continuance requested. He will be reaching out to all the people involved and give them information about seismic information and other things in hopes of resolving as many of the issues in advance of the hearing as possible. The reason for the request is to give Mr. Weger time to meet with the people involved and get them the information they need, and time for any experts to respond back.

Interested Parties:

Sharon Dobson, 3205 North Garnett, Tulsa, OK; stated that she is not opposed to the continuance but she would like to have the continuance extend to the December

meeting because there are some interested parties that cannot attend the November 10th meeting.

Mr. Henke stated that Mr. Weger nodded in agreement to the continuance going to the December 8, 2015 meeting.

Kamran Momani, 9175 South Yale, Suite #300, Tulsa, OK; stated that he believes that date will work but his wife has planned a vacation out of the country in December, and he is not sure whether it is before or after Christmas so that would be his only conflict.

Mr. Henke stated that the case can be continued to December 8th and if something needs to be addressed differently then it can be worked out with Mr. Weger.

Mr. Henke asked Ms. Moyer if notice could be provided to the interested parties of any changes. Ms. Moyer nodded her acknowledgement and consent.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Flanagan, Snyder, White "aye"; no "nays"; Van De Wiele "abstaining"; none absent) to **CONTINUE** the request for a Special Exception to permit a quarry in the IM and AG Districts (Section 301 & Section 901) to the Board of Adjustment meeting on December 8, 2015; for the following property:

PRT N/2 SEC BEG 988.86E SWC SW NW TH N1319.83 E1648.86 TO PT ON EL NW S660.64 E2637.58 TO NEC S/2 S/2 NE S661.79 W4285.09 POB SEC 20 20 14 90.006ACS; PRT LT 1 BEG NWC LT 1 TH E5173.94 S823.63 W3856.50 W1317.35 N920.35 POB BLK 1; W/2 NE SW & NW SW LESS BEG NWC N/2 N/2 SW TH E1991.67 S17 NW189.65 W1324.54 S446 W477.63 N456 POB SEC 21 20 14 54.637ACS; BEG SWC NW TH N311 E302 N349.06 E687.09 S659.91 W988.86 POB LESS W50 THEREOF FOR RD SEC 20 20 14 12.202ACS; BEG NWC N/2 N/2 SW TH E1991.67 S17 NW189.65 W1324.54 S446 W477.63 N456 POB SEC 21 20 14 5.363ACS; LT-9-BLK-2; LT-10-BLK-2; LTS 11 & 12 BLK 2; LTS 6 7 & 8 BLK 2; LT-5 BLK-2; N.490.95' OF LT 4 BLK 2 LESS N.5' & LESS E.25' TO PUBLIC; S.150' OF LT 4 BLK 2 LESS E.25 TO PUBLIC; LT 3 BLK 2; LT 2 LESS W140.78 S150 THEREOF BLK 2; W140.78 S150 LT 2 BLK 2; LT-1-BLK-2; LTS 1 & 2 BLK 1; LT-3-BLK-1; LT-4-BLK-1; LT-5-BLK-1; LT-6-BLK-1; LT-7-BLK-1; LT-8-BLK-1; LT-9-BLK-1; LT-10-BLK-1; LT-11-BLK-1; LT 12 LESS E250 & LESS W25 & S5 THEREOF BLK 1; W125 E250 LT 12 LESS S5 THEREOF BLK 1; E125 LT 12 LESS S5 THEREOF BLK 1, APACHE ADDN, AIRPARK DISTRIBUTION CENTER, GOFIT, RACEWAY ADDN, LANGLEY ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

21980—Roy Johnsen

Action Requested:

Special Exception to allow wrecker, impound and storage services (Use Unit 26) in the IL District (Section 901). LOCATION: 8831 East Pine Street North (CD 3)

Presentation:

The applicant has withdrawn this case.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

BEG SWC SE SE SW TH N660.44 E661.14 S335.06 W350 S284.03 W211.08 S40 W100 POB LESS S50 W100 SE SE SW SEC 25 20 13 7.100ACS AND BEG 40N SWC SW SE TH N800 E532.52 S800 W532.20 POB SEC 25 20 13 9.78ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

UNFINISHED BUSINESS

21937—Barrick Rosenbaum

Action Requested:

Variance of all Bulk and Area Requirements in the RS-1 District to permit a lot-split (Section 403, Table 3). LOCATION: 3908 South Evanston Avenue (CD 9)

Presentation:

The applicant was not present.

Interested Parties:

Colin Tucker, 2860 East 39th Street, Tulsa, OK; stated that he was told by someone from the City this morning that the City probably would request a continuance.

Mr. Henke asked if there was a representative from the City present. No one came forward.

Mr. Van De Wiele asked staff if they knew what was happening with the property. Ms. Moye stated that the last time she spoke with the applicant he stated that he was waiting for information from the City and there was no further contact from the applicant.

Mr. Henke stated that he does not like to keep requesting Mr. Tucker to continue to make appearances.

Mr. Van De Wiele stated that he would like it be known to Mr. Rosenbaum that the Board will act on this at the next meeting.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-1 (Henke, Flanagan, Van De Wiele, White "aye"; no "nays"; Snyder "abstaining"; none absent) to **CONTINUE** the request for a Variance of all Bulk and Area Requirements in the RS-1 District to permit a lot-split (Section 403, Table 3) to the Board of Adjustment meeting on November 10, 2015; for the following property:

LT 10 BK 25, Ranch Acres Blocks 19-25, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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UNFINISHED BUSINESS

21970—Jeremy Perkins

Action Requested:

Variance to permit an underground detached accessory building in the required front yard (Section 402.B.1.b); Variance to reduce the required front yard from 30 feet to 0 feet to permit an addition to the existing garage in the RS-2 District (Section 403.A, Table 3). **LOCATION:** 109 East 26th Street South **(CD 4)**

Presentation:

Jeremy Perkins, 2200 South Utica Place, Suite #216, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Henke stated the Board has received elevations for the subject property and they look great.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Variance to permit an underground detached accessory building in the required front yard (Section 402.B.1.b); Variance to reduce the required front yard from 30 feet to 0 feet to permit an addition to the existing garage in the RS-2 District (Section 403.A, Table 3), subject to the conceptual plans submitted today, October 27, 2015. The Board has found that the garage is in need of replacement due to deterioration of the existing garage, and the other changes to the property to be necessary for safety concerns with the existing stairwell. The Board has found that the front face of the garage to be generally in line with the existing construction. 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:

E 12.67' LT 7 ALL LT 8, BLK 11, RIVERSIDE DRIVE ADDN THIRD AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

21973—Darwin Olson

Action Requested:

Variance to increase the maximum permitted floor area of a detached accessory building to 1,279 square feet (Section 402.B.1.d); Variance to increase the nonconformity of a structure (Section 1405.A); Variance to permit a two-story detached accessory building; Variance to exceed 18 feet in height and 10 feet at the top of the top plate; Variance to exceed 30% of coverage in the rear yard area (Section 210.B.5). **LOCATION:** 1546 South Yorktown Place East **(CD 4)**

Presentation:

Wally Wozencraft, Architect, 1619 South Boston, Tulsa, OK; stated the garage apartment is being renovated due to safety concerns; there are structural problems that need to be addressed because the building was built in 1923. The home owner would like to use the apartment for visiting family. The garage apartment is not intended to be used as a rental or any kind of non-family activity. The existing building is being enlarged by the fact that the second floor is only partially occupied at this time. The second floor will be expanded within the perimeter of the existing building. The floor coverage of the building will not be increased but the floor coverage of the second floor is merely being improved. The roof parameter will be changed in that fact that it will be widened on the slope as it comes down to the bearing point of the second floor. The ridge line of the building will remain the same except at the perimeter wall where it will be widened slightly so the single window dormer on the east side to make it a triple window, and there will be a triple window on the west side also.

Interested Parties:

Edward Bret, 1557 South Yorktown Place, Tulsa, OK; stated he lives across the street from the subject property. His concern is that in the past the Olson's have exhibited an interest in making the house immediately to the south, which they also own, a bed and breakfast. He is real concerned about the use of the expansion in terms of a rental and he wants to make sure that it cannot be used as a rental.

Mike Hodstrom, 1527 South Yorktown Place, Tulsa, OK; stated that his concerns are that the primary residence associated with the subject request is currently not occupied and it currently being used as a vacation by owner rental. His concern is that the improvements on the property will be used as a rental property.

Barbara Olson, 1554 South Yorktown Place, Tulsa, OK; stated she is the owner of the subject property. She expressed her gratitude to her neighbors for being so concerned about the neighborhood. It is this spirit of liking the neighborhood that prompted her to purchase the property. She owns the subject property and the house immediately next door. The house she currently lives in is very large and she raised her seven children in it along with several international students there also. When she purchased the subject property in 2012 it was her intent to sell her present dwelling to live in the subject house because it is considerably smaller. It has taken a lot of time and money to get it remodeled because nothing had ever been done to the house. She sent a letter to everyone in the neighborhood explaining her intent and she heard nothing in return. It is her intent to live in the subject house once it is ready. She is not planning on renting out the subject space being discussed today.

Susan Braselton, 1526 South Yorktown Place, Tulsa, OK; stated that this is a historical district. Ms. Braselton stated that she did receive a letter stating that the Olson's were interested in having a bed and breakfast; it was never a vacation rental by owner that the neighbors were informed of which was found out by accident. The neighbors did communicate through the association's president that there were some people for it and some people were against it. She has e-mails showing the responses to the

proposition. The neighbors were promised in the letter about the bed and breakfast that there would be no parking on the street, and there have been numerous people parking on the street. There have been big groups that rent both the Olson houses and it concerns the neighbors about having rental property in the neighborhood.

Rebuttal:

Mr. Wozencraft came forward and stated that he has been told by the owner that the house is to be lived in and use it for family uses. The building has been in existence for a very long time and needs repairs for the garage apartment as did the house.

Mr. Van De Wiele asked Mr. Wozencraft about the second floor windows that overlook the yard toward the west; is the subject garage obscured by the garage on the property directly to the west. Mr. Wozencraft stated that he had not noticed. Mr. Van De Wiele asked Mr. Wozencraft if he knew whether the westerly property had a two-story garage. Mr. Wozencraft stated that he did not know but he knows there are a lot of trees around the subject garage giving beautiful coverage.

Comments and Questions:

Mr. Henke stated he could support the relief with the prohibition in the motion that subject property will not be rented out.

Mr. Van De Wiele stated that he knows the Board has seen the limitation on a property being a separate residence, but he does not know about saying the house cannot be rented. Mr. Henke stated that he is speaking of not renting out the garage apartment.

Ms. Miller stated that the request today the applicant is stating it is an accessory to their dwelling unit which does not require a Variance for an additional dwelling unit. But if it was to be separate or independent of the primary residence the applicant would need to obtain a Variance allowing the additional dwelling unit on the lot. Mr. Van De Wiele asked Ms. Miller what would trigger that. Ms. Miller stated that is an interesting question because if the applicant claims this is an accessory to their residence, with the family members only occupying the unit, if that evolved over time and became something else either the applicant would have to voluntarily ask for the change or neighborhood inspections would need to catch it.

Mr. White asked Ms. Miller what exactly can the owner do relative with the issues that have been brought up, on the property as a whole. Ms. Miller stated that a bed and breakfast needs a Special Exception and the applicant is not before the Board today with that request. In a residential district a home owner is limited on what can be done.

Mr. Van De Wiele asked Ms. Miller if the City or the Zoning Code has taken a position on whether a home owner is running a business if he rents his house out as a vacation home, or is that the same as renting a house on a two-year lease. Ms. Miller stated there is no real way to monitor that. Ms. Moyer stated the Zoning Code addresses sleeping rooms; it states that "in a dwelling unit as a private residence, one or more rooms may be rented or table board furnished, to not exceeding two persons not

members of the family occupying said premises”. Ms. Moyer stated that the Zoning Code allows for private residence, for one or two rooms to be rented out, but the Code does put a cap on it. Ms. Miller stated that is assuming the home owner is primarily occupying the house. Mr. Van De Wiele stated that sounds more like a business than a residence.

Mr. Van De Wiele stated that he does not have an issue with the garage with a limitation.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Variance to increase the maximum permitted floor area of a detached accessory building to 1,279 square feet (Section 402.B.1.d); Variance to increase the nonconformity of a structure (Section 1405.A); Variance to permit a two-story detached accessory building; Variance to exceed 18 feet in height and 10 feet at the top of the top plate; Variance to exceed 30% of coverage in the rear yard area (Section 210.B.5), subject to conceptual plans 6.19, 6.20 and 6.21. The Board has found that this is a remodel of an existing garage and that the overall footprint of the garage is not changing, the overall type of the garage is not changing other than the expansion of the dormer areas. The Board has found that the remodel is necessary for improving the condition of this older property that was built prior to the Zoning Code. This approval is subject to the further condition that the detached accessory building, in particular the space on the second floor, not be used as a rental property or as a separate residence apart from the primary residence. 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 10, SEVEN ACRES PLACE, MAYWOOD ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21974—Thomas Witte

Action Requested:

Variance to increase the permitted display area of a sign to 76.5 square feet on the subject lot; Variance to allow an electronic message center in the RS-3 District (Section 402.B). **LOCATION: 5838 South Sheridan Road East (CD 4)**

Presentation:

Thomas Witte, 9529 South 88th East Place, Tulsa, OK; stated he represents the Tulsa Bible Church and is the Treasurer and Business Manager for the church. The church

would like to replace the current sign with a smaller sign that has an electronic messaging board. The sign will be 270 feet from any residential property and more than 300 feet from any residence itself. There is an electronic messaging sign across the street from the church and the proposed sign will be smaller than that one.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-1 (Henke, Flanagan, Snyder, Van De Wiele “aye”; no “nays”; White “abstaining”; none absent) to **APPROVE** the request for a **Variance** to increase the permitted display area of a sign to 76.5 square feet on the subject lot; **Variance** to allow an electronic message center in the RS-3 District (Section 402.B), subject to conceptual plans 7.21 and 7.22 and the conditions set forth on page 7.5. The sign will not be operated between the hours of 12:00 midnight and 6:00 A.M. The sign will be generally located in the same location as the existing sign. The Board has found that the new sign is a necessary and desirable update to provide information to the neighborhood and the church congregation. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**BEG 50W NEC SE SE W533 S471.06 NE130.4 NE61.18 NE CRV 214.92 E187.48
N330 POB SEC 34 19 13, PARK PLAZA EXT, CITY OF TULSA, TULSA COUNTY,
STATE OF OKLAHOMA**

21975—Joseph Ault

Action Requested:

Variance to increase the size of a carport from 400 square feet to 570 square feet; **Variance** to increase the distance from the front of the principle building from 20 feet to 28.5 feet; **Special Exception** to allow a carport in the required front yard (Section 210.B.10). **LOCATION:** 5412 South Marion Avenue East **(CD 9)**

Presentation:

Joseph Ault, 5412 South Marion Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for questions from the Board.

Mr. Henke asked Mr. Ault if he erected the carport about three years ago and if the contractor told him that he did not need a permit. Mr. Ault answered affirmatively. Mr. Ault stated the contractor assured him that he did not need a permit and with there being several other carports in the neighborhood he took his word.

Mr. Henke asked Mr. Ault if he would like to have the carport approved as it exists today. Mr. Ault answered affirmatively.

Mr. White asked Mr. Ault if he had received any questions or problems from the neighbors. Mr. Ault stated that they watched the carport being built and were pleased with the appearance of the carport.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Variance to increase the size of a carport from 400 square feet to 570 square feet; Variance to increase the distance from the front of the principle building from 20 feet to 28.5 feet; Special Exception to allow a carport in the required front yard (Section 210.B.10), subject to “as built” on this date, October 27, 2015. The carport dimensions are shown on page 8.10. The Board has found that the carport is in keeping with the character of the immediate neighborhood, the distance from the building are in keeping with some other carports in the immediate neighborhood and it is 12 feet from the property line. 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. 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 2 BLK 3, LOU NORTH WOODLAND ACRES 2ND ADDN, CITY OF TULSA,
TULSA COUNTY, STATE OF OKLAHOMA**

21976—Whistler Sign Company, LLC – John Allred

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2); Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 feet from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10). **LOCATION:** 4041 North Garnett Road East (CD 3)

Presentation:

John Allred, 11063-D South Memorial, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Henke stated the Board was in receipt of the applicant's survey on page 9.6.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant's verification of spacing between outdoor advertising signs, for either a digital or conventional billboard, subject to the action of the Board being void should another digital and/or standard outdoor advertising sign be constructed prior to this sign; for the following property:

PRT LT 1 BEG NWC S/2 N/2 NW SW TH E1268.40 S330.67 W1268.59 N330.88 POB BLK 1; LT 1 LESS BEG NWC S/2 N/2 NW SW TH E1268.40 S330.67 W1268.59 N330.88 POB BLK 1, MINGO VALLEY INDUSTRIAL PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21977—Whistler Sign Company, LLC – John Allred

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2); Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 feet from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10). **LOCATION:** 9904 South Riverside Parkway East (CD 2)

Presentation:

John Allred, 11063-D South Memorial, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Henke stated the Board was in receipt of the applicant's survey on page 10.6.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant's verification of spacing between outdoor advertising signs, for either a digital or conventional billboard, subject to the action of the Board being void should another digital and/or standard outdoor advertising sign be constructed prior to this sign; for the following property:

LT 1 BLK 1, KINGS LANDING, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21978—Robert Alsup

Action Requested:

Modification to a previously approved site plan to allow expansion of an existing storage building. **LOCATION:** 1212 South 129th Avenue East (CD 6)

Presentation:

Robert Alsup, 12805 East 13th, Tulsa, OK; stated he would like to add a shed from an existing building to be able to park the church van inside it. The existing building is 30'-0" x 50'-0" and the proposed shed would be 20'-0" x 30'-0" which would be added to the back side of the existing building. The building and proposed shed is 100 feet away from any existing structure.

Mr. Van De Wiele asked Mr. Alsup if the drive to the shed was going to be asphalted or paved. Mr. Alsup stated there were no plans to do so. Mr. Alsup stated the van is only used two or three times a year and it has been vandalized several times so the church wants a shed to park it in for protection.

Mr. White stated that it is a code requirement that the drive be asphalted to the shed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a **Modification** to a previously approved site plan to allow expansion of an existing storage building on site, subject to conceptual plan 11.12. Finding the proposed modifications are compatible and non-injurious to the surrounding area and the previously granted Board relief and meets the zoning requirement per Code; for the following property:

LT 1 LESS BEG NEC LT 1 TH S57.37 NWLY328.86 NELY29.99 E325 POB BLK 1,EAST CENTRAL HGTS, EAST CENTRAL HGTS TABERNACLE RESUB B1-2 PRT B3 & B4-5, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21979—Wade Richardson

Action Requested:

Special Exception to increase the maximum height of a fence in the required front yard from 4 feet to 6 feet (Section 210.B.3). **LOCATION:** 4120 South Norfolk Avenue East (**CD 9**)

Presentation:

Wade Richardson, 4120 South Norfolk Avenue, Tulsa, OK; stated he is the owner of the subject property.

Mr. Henke stated the case report gives the Board a good explanation; the Richardson’s bought the house with the fence existing and now needs relief.

Mr. Henke asked Mr. Richardson when the fence was built. Mr. Richardson stated that the fence was built approximately two years ago.

Mr. Van De Wiele asked Mr. Richardson if the portion of the fence under discussion was the middle section of the fence. Mr. Richardson answered affirmatively. Mr. Richardson stated that it is 26 feet from the west edge of Norfolk to the six foot rise in the fence.

Mr. Van De Wiele asked Mr. Richardson how tall the first portion of the fence is. Mr. Richardson stated that it is four feet, the next section is six feet and the last portion of the fence at the building line is eight feet going into the back yard.

Interested Parties:

Gary Haddad, 4128 South Norfolk, Tulsa, OK; stated he lives just to the south of the subject property. This situation started prior to the Richardsons purchasing the property. When the previous erected the fence he started calling the City to request an assessment of the property and it took seemingly a lot longer than he thought it should. In the meantime the Richardsons purchased the property; then the City deemed the fence was not in compliance with the Code. Mr. Haddad stated that he, his family or any of his guests cannot see the corner as they are backing out of their driveway. Mr. Haddad had pictures of the driveway area placed on the overhead projector showing his view.

Mr. Henke asked Mr. Haddad if he was here today to protest the six foot section of the fence. Mr. Haddad stated that is all he can protest.

Mr. Haddad stated that he informed Mr. Richardson that he had turned in the fence violation to the City, and offered to help lower the six foot section of the fence so he could see clearer. Mr. Haddad stated that to him it is all about safety for his family.

Mr. Henke stated to Mr. Haddad that if he is backing out of his driveway there is 26 feet of either nothing for the first 11 feet then 15 feet of a conforming four foot fence, he is attempting to place the argument into perspective when talking about the middle section of the subject fence. Mr. Haddad stated that he is just going by the Code, Section 240-2.C.

Mr. Van De Wiele stated that in looking at the pictures presented, the neighbor parking on the sidewalk which is the last 11 feet is in violation. Mr. Haddad stated that ultimately is looking for safety for his family and he tried to get this taken care of prior to the Richardsons purchasing the house so they would not be in this situation.

Mr. Henke asked Mr. Haddad if he could see over the four foot section of the fence without any trouble. Mr. Haddad stated that he can when he is in his truck but his wife cannot when she is in her Prius. Mr. Henke asked Mr. Haddad how many feet he thought he would need to see if 26 feet is not enough. Mr. Haddad stated that he would like to be able to stand on his porch and see the corner which he cannot do.

Mr. Van De Wiele randomly asked the board what the justification is for having a six foot fence. Mr. Henke asked about a fence that was shown in a photo that is two houses away, and he asked Mr. Richardson to come forward. Mr. Van De Wiele asked Mr. Richardson to take the Board through the pictures that have been provided and are displayed on the overhead projector.

Mr. Richardson stated that the photographs he provided show samples within one block of his house. Mr. Van De Wiele asked about a photo of a privacy fence and Mr. Richardson stated that it is a house one block west on Owasso Avenue. Mr. Van De Wiele asked Mr. Richardson if the fence was in the front yard of the house in the picture. Mr. Richardson answered affirmatively and stated that it is an eight foot fence

that extends across the entire frontage of Owasso and is about 12 to 15 feet from the curb line. Mr. Van De Wiele asked Mr. Richardson if he wanted to see that in his neighborhood. Mr. Richardson stated that he did not, but he does want to keep the 20'-0" x 6'-0" section of fencing intact as it is today because it is a very aesthetically pleasing fence and it is a nice fence that is capped.

Mr. Richardson stated there are about 18 houses on his block and 15 of those houses are occupied. Of those 15 houses 12 homeowners signed his petition, including Mr. Haddad, saying the fence did not provide them any safety or security concerns.

Mr. Van De Wiele asked Mr. Haddad if he signed Mr. Richardson's petition. Mr. Haddad answered affirmatively. Mr. Haddad stated that it was for appearance not safety; it was late at night and did not have his glasses on, saw Mr. Richardson walking the neighborhood getting signatures and he did not want to be the bad guy. Mr. Haddad stated the fact is that he is affected by the fence even in a small way. Mr. Haddad thinks the previous house owner should be the one who bears the brunt of this action but he cannot go back and make that happen.

Mr. Van De Wiele stated that from a safety standpoint it seems to be the parking on the sidewalk than the fence. Mr. Haddad stated he signed the petition prior to this last week and they parked their cars on the sidewalk for two weekends. Mr. Haddad stated the Richardsons have a two car garage and asked why they don't park in their garage or park within their circle drive.

Mr. Van De Wiele asked staff if any of the fences shown in the photographs were approved. Ms. Moye stated that in the case history research none of the fences came up as approved in the immediate surrounding neighborhood.

Mr. Richardson came forward and stated that he can appreciate Mr. Haddad's frustration. Mr. Richardson stated that he went on vacation last week, and historically he has parked his car in the circle drive but while he was on vacation he parked his cars offset so his daughter could use the drive and not need to park in the street while using the house in his absence. Mr. Richardson stated that he has tall fountain grass and has cut it down to four feet to appease the Haddad's need to see. Mr. Richardson stated the fence has existed for two and a half years and the majority of the neighbors have no complaints about the fence. It can be readily seen over. Mr. Richardson stated that the fence is symmetrical on the north and south side of his property, so if one side is altered it is necessary to alter the other side. If the fence is lowered he will be looking directly into Mr. Haddad's front yard, into the front porch and into the front of his house. At night, when it is dark, when he pulls into the driveway the fence blocks the car's headlights from going to Mr. Haddad's house. It is in Mr. Haddad's best interest to let the fence remain because if it comes down he will be forced to do what everyone else in the neighborhood has done and that is plant large shrubs for privacy. No one wants that. Mr. Haddad does not want that. Mr. Richardson stated he does not want that but that is what he will do if he is forced to cut the fence down. The homes in the neighborhood are matchbox properties with 60 foot frontages and 120 foot depths so for

privacy that is what the home owners do; they plant shrubs and trees or erect tall fences. Mr. Haddad stated that he feels his fence is less obstructive than many other trees, shrubs or fences in the neighborhood but it also provides him the privacy he needs. He feels it is a good compromise for the neighborhood and it fits the character of the neighborhood.

Comments and Questions:

Ms. Snyder stated that it bothers her that Mr. Haddad signed the petition. Ms. Snyder also understands that Mr. Richardson purchased the house with the fence existing and apparently it took awhile for anything to happen. She does not have a problem with the fence.

Mr. Van De Wiele stated that he is struggling with the fence being in the harmony with the spirit and intent of the Code. Mr. Van De Wiele stated that from a safety standpoint it is the unobstructed last few feet that is the issue. Aesthetically it is probably the nicest looking fence in the neighborhood. His struggle is if there is a justification for the fence.

Mr. Henke stated that he would not say it is out of character for the neighborhood.

Mr. Swiney asked the Board to confirm that the only issue is the middle section, or six foot section, of the fence. Mr. Henke stated that is based on the exhibits in the Board's agenda packet, and that information says it is 11 feet from the curb to the fence post, and 15 feet from the fence post to the six foot section for 26 feet. Mr. Swiney stated that on the south side of the property the information indicates there is 17 feet of the four foot fence plus the 11 feet from the curb so that totals 28 feet.

Mr. Henke stated that from the curb back 28 feet the fence is allowed as it stands today under the Code. If there was legitimately a safety concern more than 28 feet back he thinks that would be a good argument.

Mr. Flanagan stated that he can support Mr. Richardson's request based 28 feet from the fence to the street.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 3-1-1 (Henke, Flanagan, Snyder "aye"; Van De Wiele "nay"; White "abstaining"; none) to **APPROVE** the request for a **Special Exception** to increase the maximum height of a fence in the required front yard from 4 feet to 6 feet in the RS-3 District (Section 210.B.3), subject per drawing 12.11. 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 16 BLK 2, ALTA DENA PLACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 2:26 p.m.

Date approved: 11/10/15

Frank X. Hill, II

Chair