BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1155
Tuesday, February 9, 2016, 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		Miller	Swiney, Legal
Flanagan		Moye	Blank, Legal
Snyder		Sparger	
Van De Wiele			
White, Vice Chair			

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, February 4, 2016, at 10:01 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.

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

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MINUTES

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 **Minutes** of the January 12, 2016 Board of Adjustment meeting (No. 1153).

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 **Minutes** of the January 26, 2016 Board of Adjustment meeting (No. 1154).

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OTHER BUSINESS

22021—Nathan Young

Action Requested:
Variance of the required side yard setback from 10 feet to 5 feet in the RS-2 District (Section 403, Table 3). **LOCATION:** 124 East 26th Street South **(CD 4)**

Mr. Henke announced that at the last Board of Adjustment meeting the applicant had withdrawn his application and requested a refund of the fees. Staff had indicated that they recommended no refund based on the expenses incurred.

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 **DENY** the request for a Refund due to expenses being incurred and spent; for the following property:

ALL OF LT 2 BLK 14, RIVERSIDE DRIVE ADDN THIRD AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22022—Nathan Young

Action Requested:
Variance of the required side yard setback from 10 feet to 5 feet in the RS-2 District (Section 403, Table 3). **LOCATION:** 130 East 26th Street South **(CD 4)**

Mr. Henke announced that at the last Board of Adjustment meeting the applicant had withdrawn his application and requested a refund of the fees. Staff had indicated that they recommended no refund based on the expenses incurred.

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 **DENY** the request for a Refund due to expenses being incurred and spent; for the following property:

W50.10 OF LT 1 BLK 14, RIVERSIDE DRIVE ADDN THIRD AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Mr. Swiney stated that the new City of Tulsa Zoning Code went into effect on January 1, 2016. Any Board of Adjustment applications submitted in 2015 would be judged according to the older Zoning Code which was in effect until December 31, 2015. Today will be the first case to be heard under the new Zoning Code.

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UNFINISHED BUSINESS

21998—Lamar Outdoor Advertising – Lorinda Elizando

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); Variance of the allowed display surface area for signage on a lot in the IL District (Section 1221.E.3). **LOCATION:** 15091 East Admiral Place North **(CD 6)**

Presentation:
The applicant was not present so the case was moved to the end of the agenda by Mr. Henke.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
No Board action required at this time.

22002—Eller & Detrich – Andrew Shank

Action Requested:
Variance of the required setback from South Sheridan Road to permit vacuum structures (Section 703, Table 2). **LOCATION:** 2181 South Sheridan Road **(CD 5)**

Mr. Henke recused and left the meeting at 1:08 P.M.

Presentation:
Andrew Shank, Eller & Detrich, 2727 East 21st Street, Suite #200, Tulsa, OK; stated there has been an updated site plan submitted today that shows the exact dimension from the centerline of Sheridan, which will be a 60 foot setback. The previously approved Special Exception for the car wash at the subject location has an 80 foot setback. The setback is for the vacuum structures for the renovated car wash. Mr. Shank had photos places on the overhead projector showing the structures that are going to be located within 10 feet of the property line or 60 feet from the centerline of

South Sheridan. The vacuum actually runs under ground into the building. The engines propelling the vacuums are housed in the car wash so there will not be additional noise generated. The site has mixed use on it and what would otherwise be the required rear yard there is a mini-storage existing so the developer is limited as to where the accessory use structures could be located. This is an application under the old Zoning Code but the new Zoning Code allows the structures to be moved within 10 feet of the street right-of-way. The hardship in this application is that it was filed under the old Code and this is a Special Exception use so when it is changed the applicant has to amend the site plan.

Mr. Van De Wiele asked Mr. Shank where the main building will be setting on the property. Mr. Shank stated that it is hard to answer the question precisely because the previously approved site plan has a 60 foot setbackm but the setback is not from the centerline of Sheridan and it is not from the property line. The base line of the setback is someplace in the right-of-way and he does not know why it is that way.

Mr. Van De Wiele asked if the building was being discussed or if this is just the vacuums. Mr. Shank stated that the only thing under discussion are the vacuums; the application is just for the vacuums. The structure will be approximately another 60 feet set back into the property from where the Variance is being requested and it is per plan. The vacuum structures will be 10 feet from the property line and the building is another 60 feet back.

Mr. Flanagan asked Mr. Shank if the property owner of the subject property is the same owner as the car wash located on South Peoria. Mr. Shank answered affirmatively, it is Triple Play Car Wash.

Mr. Van De Wiele asked Mr. Shank if he had said that these were accessory structures and under the new Code they would be allowed. Mr. Shank stated that he had said those words but not next to each other. Mr. Shank stated that under the old Code these accessory structures are allowed by right in the required rear yard. Because there is a mini-storage on the property there is no room in the rear yard so that is the hardship. Mr. Shank stated that the new Code, the structure setback is 10 feet from the property line so if the application were filed under the new code the building could be pushed back to 10 feet from the property line on Sheridan.

Interested Parties:
There were no interested parties present.

Comments and Questions:
Ms. Snyder stated she can support this request because it would just be an amended site plan under the new Zoning Code. She believes that it is not a visual obstruction because of the way the vacuums were presented and proposed to be built.

Mr. Van De Wiele agreed and requested that the photos and plan presented be made part of the approval.

Board Action:
On **MOTION** of **SNYDER**, the Board voted 4-0-0 (Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; Henke "abstaining"; none absent) to **APPROVE** the request for a Variance of the required setback from South Sheridan Road to permit vacuum structures (Section 703, Table 2), finding that under the current Code this would be a amendment to the existing site plan that was previously approved by the Board. This approval is subject to per site plan submitted today and the conceptual photos submitted today with the site plan. The motors for the vacuums will be inside the solid structure. In granting this Variance and by reason of this extraordinary or exceptional conditions or circumstances which is 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 the purposes, spirit and intent of the Code, or the Comprehensive Plan; for the following property:

LTS 1 2 & W30.72 LT 3 BLK 1 & LTS 1 2 & W30.46 LT 3 BLK 2 & 60 OF VAC 22ND ST ADJ TO BLKS 1 & 2, COZY ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Henke re-entered the meeting at 1:21 P.M.

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NEW APPLICATIONS

22015—Amy Tackett

Action Requested:
Special Exception to permit an electrical contractor use (Use Unit 15) in the CS District (Section 701, Table 1); Variance to reduce the required building setback from an abutting R District to 0 feet (Section 703, Table 2). **LOCATION:** 2211 East 6th Street South **(CD 4)**

Presentation:
Ed Sharrar, 2216 East Admiral Boulevard, Tulsa, OK; stated he is before the Board to represent the applicant. This is a property that was a funeral home for decades. When it was first converted from a residential structure to a funeral home in the late 1940s it was the Tulsa Whisenhunt Funeral Home. In the 1990s it was acquired by the Ninde family and the structure has sat vacant for approximately 12 years. When the building went up for auction, Electrical Mechanical Company (EMC) purchased the building and would like to relocate from their current location at 8th and Elgin to the subject property.

In regards to the Special Exception to permit the electrical contractor use, there are mixed uses in the area and other commercial structures. There is a commercial print shop and a vending company that also fall under the Use Unit 15 under the old Zoning Code in the area. The Code seems to be most concerned about screening from residential use and Mr. Sharrar presented a series of photos on the overhead projector showing the immediate area and the existing screening in the area. In regards to the Variance the hardship is that the detached structure was built on the rear property line when the property was first developed in 1940, and when the detached structure was expanded the expansion was built directly on the rear property line. The property has been in that condition for 60+ years and EMC has inherited that condition when they purchased the property.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On **MOTION** of **SNYDER**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit an electrical contractor use (Use Unit 15) in the CS District (Section 701, Table 1); Variance to reduce the required building setback from an abutting R District to 0 feet (Section 703, Table 2), subject to per plan 5.18 "as built". The Board has found that this was an existing non-conforming structure prior to the current Zoning Code. The current owner will refurbish the existing non-conforming building and that the use will not be injurious to the neighborhood. 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. Finding by reason of extraordinary or exceptional conditions or circumstances, mainly being that the building is existing non-conforming, which is peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

LTS 17 THRU 20 BLK 4, HILLCREST ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22026—Doug Cole

Action Requested:
Variance of the required rear yard in the RS-3 District to permit a porch addition (Section 5.030-A, Table 5-3). **LOCATION:** 8016 South Joplin Avenue East **(CD 8)**

Presentation:
Doug Cole, 2882 East 140th Place South, Bixby, OK; stated the home owner would like ot have a screened in attached covered patio. The hardship is that the setback is currently 25 feet and it allows for no room for the home owner to do any type of structure in the back yard. The property directly behind the subject property is basically a ravine that is used for water discharge from the neighborhood so there no potential for any future homes being built.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On **MOTION** of **WHIITE**, 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 of the required rear yard in the RS-3 District to permit a porch addition (Section 5.030-A, Table 5-3), subject to conceptual plan 6.14. The Board has found the hardship that there is no room from the rear of the house to the back property line to construct anything and still stay within the Code and the property directly west of the subject property is a retention pond. Finding that for the purposes of the Variance the Board finds that the following conditions have been established:

- the physcial surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- that literal enforcement of the subject Zoning Code provision is not necessary to achieve the provision's intended purpose;
- that the conditions leading to the need of the requested Variance is unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- that the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- that the Variance granted is the minimum Variance that will afford relief;
- that the Variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and

- that the Variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this Zoning Code or the Comprehensive Plan; for the following property:

LT 17 BLK 5, PLEASANT VALLEY ESTATES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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UNFINISHED BUSINESS

21998—Lamar Outdoor Advertising – Lorinda Elizando

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); Variance of the allowed display surface area for signage on a lot in the IL District (Section 1221.E.3). **LOCATION:** 15091 East Admiral Place North **(CD 6)**

Presentation:
The applicant was not present but Mr. Andrew Shank came forward and stated that he had called Ms. Elizando during the meeting regarding her case and she has requested the case to be withdrawn.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
No action required by the Board as the case has been withdrawn.

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OTHER BUSINESS
None.

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NEW BUSINESS
None.

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BOARD MEMBER COMMENTS

Mr. Van De Wiele requested that the new findings for the new Zoning Code be reviewed for possibly streamlining them for reading in a motion.

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There being no further business, the meeting adjourned at 1:40 p.m.

Date approved: 2/23/16

Frank X. Hanna

Chair