

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1026
Tuesday, June 8, 2010, 1:07 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Henke, Chair Stead, Vice Chair Tidwell, Secretary Van De Wiele White	None	Alberty Cuthbertson Sparger	Boulden, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Tuesday, June 3, 2010, at 10:31 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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Mr. Cuthbertson read the rules and procedures for the Board of Adjustment Public Hearing.

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MINUTES

On **MOTION** of **Tidwell**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** the **Minutes** of May 25, 2010 (No. 1025).

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Mr. Henke asked if there were any Requests for Continuance. Mr. Cuthbertson responded that there was one Request for Continuance.

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CONTINUANCE(S)

Case No. 21086-Kim Wathen

Action Requested:

Variance of the maximum permitted floor area for detached accessory buildings in the RS-2 district (Section 402.B.1.d); and Variance of the 30 ft. of frontage required on a public street to permit a lot to be used for residential purposes (Section 206); to permit an existing dwelling and detached building(s).

Presentation: Mr. Cuthbertson stated that Kim Wathen, 1502 South 133rd East Avenue, Tulsa, OK; has asked for a continuance until the next meeting on June 22, 2010.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstains") to **APPROVE** the request for continuance until June 22, 2010 on the variance of the maximum permitted floor area for detached accessory buildings in the RS-2 district (Section 402.B.1.d); and Variance of the 30 ft. of frontage required on a public street to permit a lot to be used for residential purposes (Section 206); to permit an existing dwelling and detached building(s).

UNFINISHED BUSINESS

Case No. 21080-Sack & Associates

Action Requested:

Special Exception to permit boat and RV storage (Use Unit 16) in a CS district (Section 701); and a Variance of the frontage requirement in a CS district (Section 703); and a Special Exception to permit additional storage space to utilize an existing 15 ft. frontage on S. Memorial Dr. **Location:** 1137 South 79th East Avenue.

Presentation:

Eric Sack, Sack & Associates, 111 South Elgin, Tulsa, OK; represents the owner of the present boat and RV storage which is located south of the subject tract. The tract has access from Memorial via a driveway located at the southeast corner of the property. The tract A2 will be attached to the current development and the owner will extend the buildings to the north and install a building along the north edge of the property. The new buildings will be similar to the building located on the south side. The Special Exception being requested is to allow Unit Use 16 within the CS district and this will be contingent on the City Council changing the zoning of the property to CS. The

variances are to allow for a variance of the requirements of the street frontage because the tract being developed is land locked and will be attached to the current development either through a lot combination or a new plat. The Special Exception to modify the screening requirement would be to use the buildings as the screening for the single family residence on the west and apartments to the east instead of installing a six foot wood stockade fence which would create an alleyway where someone could hide.

Comments and Questions:

Mr. Henke and Ms. Stead recused themselves from this discussion and vote.

The board asked about the new building construction, and Mr. Sack stated the new building would be the exact same construction as the existing building.

The board stated there will be no outdoor storage. Mr. Cuthbertson stated once this property is zoned CS the code restricts outdoor storage.

Interested Parties

No interested parties were present.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-2 (White, Tidwell, Van De Wiele "aye"; no "nays"; Henke and Stead "abstain") to **APPROVE** the Special Exception to permit boat and RV storage in Use Unit 16 in the CS district (Section 701); a Variance of the frontage requirement in a CS district (Section 703); and the Special Exception to modify the screening requirement for boat and RV storage space from abutting R districts (Section 212.C) to utilize an existing 15 ft. frontage on S. Memorial Dr. This will be contingent on the CS zoning being approved by the City Council within six months from this date (June 8, 2010). This approval will also be subject to a new plat or lot combination of this property with the existing storage property to the south and is to be an extension of the existing unit in place. The Special Exception to modify of the screening requirement is a continuation of Case 19435, which gave relief for the screening and landscaping requirement, in this case the back of the structures are to be the screening element. For the Variance there is an existing fifteen foot driveway for access to this property and this access will be used for the additional storage area. This will be subject to the building construction similar to the existing storage buildings and it will be per plan 2.8. Finding the special exceptions will be in harmony with the spirit and intent of the code will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Finding on the variance for extraordinary or exceptional conditions or circumstances such are peculiar to the land structure or buildings involved the literal enforcement of the terms of the code will 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 the variance to be granted will not cause substantial detriment to the public good or impair the purpose of the spirit or intent of the code or the comprehensive plan; on the following described property:

A TRACT OF LAND THAT IS PART OF THE S/2 OF THE SW/4 OF THE NE/4 OF THE NE/4 OF THE NE/4 OF SECTION 11, T-19-N, R-13-E OF THE INDIAN BASE AND MERIDIAN, CITY OF TULSA, TULSA COUNTY, OKLAHOMA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT A POINT THAT IS THE SOUTHWEST CORNER OF SAID S/2; THENCE N 89°38'43" E ALONG THE SOUTHERLY LINE THEREOF FOR 30.00 FEET TO THE NORTHWEST CORNER OF LOT 2 IN BLOCK 1 OF "TORN TERRACE ADDITION", AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT NUMBER 3383; THENCE CONTINUING N 89°38'43" E ALONG SAID SOUTHERLY LINE AND THE NORTHERLY LINE OF SAID LOT 2 FOR 150.68 FEET TO THE "POINT OF BEGINNING" OF SAID TRACT OF LAND, SAID POINT ALSO BEING THE NORTHWEST CORNER OF LOT 1 IN BLOCK 1 OF SAID "TORN TERRACE ADDITION"; THENCE N 00°11'27" W ALONG THE NORTHERLY EXTENSION OF THE WESTERLY LINE OF LOT 1 FOR 165.15 FEET TO A POINT ON THE NORTHERLY LINE OF THE S/2; THENCE N 89°38'50" E ALONG SAID NORTHERLY LINE FOR 149.69 FEET TO THE NORTHEAST CORNER OF THE S/2; THENCE S 00°11'13" E ALONG THE EASTERLY LINE OF THE S/2 FOR 165.14 FEET TO THE SOUTHEAST CORNER OF THE S/2, SAID POINT ALSO BEING THE MOST NORTHERLY NORTHEAST CORNER OF SAID LOT 1; THENCE S 89°38'43" W ALONG THE NORTHERLY LINE OF LOT 1 FOR 149.68 FEET TO THE "POINT OF BEGINNING" OF SAID TRACT OF LAND.

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Case No. 21084-Claude Neon Federal Signs

Action Requested:

Variance of the maximum number of signs permitted in the OM district per street frontage (Section 602.B.4.b) to permit a second wall sign oriented to the 51st St. frontage. **Location:** 2828 E. 51ST ST. S.

Presentation:

Ed Horkey, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, OK; requesting a variance from one to two signs on the north frontage of the Interim Plaza building and additional square footage allowed on both signs. The reason for the request is due to I-44 expansion and new utility easements, and is not trying to set a precedent for the property.

Comments and Questions:

Mr. Alberty asked Mr. Horkey if the new right-of-way line was permanent and Mr. Horkey said he could not decipher the plans he had received because of a conflict on the documents.

The board confirmed the owner of Interim Plaza building had been notified of today's meeting. Mr. Cuthbertson stated the notice had been sent to the property owner but in care of the property manager – Bauer and Associates.

Mr. Boulden suggested the approval be made on the condition that all illegal signs be removed with a conditional time limit.

Interested Parties:

No interested parties were present.

Board Action:

On **MOTION** of **STEAD**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** a variance of the maximum number signs permitted in OM district per street frontage (Section 602.B.4.B) to permit a separate wall sign oriented to the 51st Street frontage. This property and to the south of I-44 being reconstructed has lost some frontage and other identifying signs out of necessity have been removed by ODOT, and the City of Tulsa will not authorize new ground signs to identify the property. We make this approval on the condition per plan 3.8 and all other signs on this building will need to be removed or be permitted. In granting this variance the board has found that the expansion of I-44 has presented extraordinary and exceptional conditions of circumstances peculiar to this land, structure or building involved and literally the enforcement of the terms of the code would result in unnecessary hardship. That such extraordinary and exceptional conditions or circumstances do not apply generally to other property in the same use district and that the variance granted will not cause substantial detriment to the public good or impair the purpose of the spirit or intent of the code or comprehensive plan; on the following described property:

LT 1 & N190 LT 2 BLK 1, VILLA GROVE GARDENS AMD

NEW APPLICATIONS

Case No. 21085-B. L. Tower Construction

Action Requested:

Special Exception to permit (Use Unit 25 - Light Manufacturing and Industry and Use Unit 23 – Warehousing) in the CG district (Section 701). **Location:** 11111 E. PINE ST. N.

Presentation:

Jerry Atchison, 2108 North Willow, Broken Arrow, OK; represents a company that erects cell towers.

Comments and Questions:

Ms. Stead asked there were any plans to screen or fence any items parked behind the building and Mr. Atchison stated there is a chain link fence for the trailers and cell tower erecting equipment to be parked.

Ms. Stead stated that any driving or parking surface is to be asphalted or concrete, plus a sidewalk will be installed along Pine Street to the extent of the property being discussed. Also, there is to be a handicap parking space as required by law.

Ms. Stead stated there will be no equipment, parts, batteries, or other truck parts, such as tires stored on the side or front yard.

Ms. Stead stated the landscaping is to be per code.

Interested Parties:

No interested parties were present.

Board Action:

On **MOTION** of **STEAD**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** a special exception to permit (Use Unit 25 - Light Manufacturing and Industry and Use Unit 23 – Warehousing) in the CG district (Section 701). This tract is surrounded by IM zoned industrial to the north, CG/IL zoning to the south, a CG zoned gas station to the west, and vacant commercial building to the east. The board finds that this use is compatible with this area; subject to the following conditions: all parking and driving surfaces to be asphalted or concrete. A sidewalk shall be constructed along East Pine Street to the boundary of the property in question; all landscaping and lighting shall be according to code. No equipment, parts, batteries, or other truck parts, such as tires, shall be stored on the side yard or front yard or around the building. Handicap parking space shall be provided as per law. The building shall be per conceptual plan 4.5. Finding in granting this special exception it will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; on the following described property:

**LT 4 BLK 1 ,WOLF POINT BUSINESS CENTER RESUB PRT B2 WOLF POINT IND
PKWY**

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Case No. 21087-Shelby Navarro

Action Requested:

Variance of the 5 ft. interior side yard requirement in the RS-4 district to 0 ft. (Section 403) to permit an addition to an existing dwelling; and a Variance of the 20 ft. rear yard requirement and 15 ft. side yard requirement abutting a public street in the RS-4 district (Section 403) to permit a canopy over an existing stair

and walkway on the east side of the existing dwelling. **Location:** 616 W. 13TH ST. S.

Presentation:

Shelby Navarro, 418 South Peoria, Tulsa, OK; represents the owner of the residence being discussed. The property is unique because the property is elevated yet nestled down within the site. The owner would like to have a modest addition added onto the house, and add a cover over an existing stairway.

Comments and Questions:

Mr. White encouraged Mr. Navarro to confirm the property lines with a surveyor before construction begins.

Interested Parties:

No interested parties were present.

Board Action:

On **MOTION** of **STEAD**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the 5 ft. interior side yard requirement in the RS-4 district to 0 ft. (Section 403) to permit an addition to an existing dwelling; and a Variance of the 20 ft. rear yard requirement and 15 ft. side yard requirement abutting a public street in the RS-4 district (Section 403) to permit a canopy over an existing stair and walkway on the east side of the existing dwelling. This board has found that approximately the same variances were granted but never utilized in 1985. There is a serious hardship imposed on the applicant by the corner lot location with setbacks on two streets and finding there are numerous setback encroachments in this older area platted and houses built in the early 1920's. The board makes this motion subject to conceptual plan 6.6 noting that it may be subject to slight modifications. Adding to the exceptional conditions is the steep topography of the lot involved. In granting these variances we have found that these exceptional and extraordinary conditions are peculiar to this land, structure or building involved and literally the enforcement of the terms of the code would result in unnecessary hardship. That such extraordinary and 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 purpose of the spirit or intent of the code or comprehensive plan; on the following described property:

LOT 12 BLK 6, CHILDERS HGTS ADDN

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Case No. 21088-Stephanie Byrd

Action Requested:

Variance of the required yard from the centerline of an abutting arterial street from 70 ft. to 40.2 ft. to permit an addition to an existing house (Section 403). **Location:** 3048 S. DETROIT AV. E.

Presentation:

Stephanie Byrd, 3048 South Detroit Avenue, Tulsa, OK; provided that the house was built in 1939 and the owner is wanting to add onto the house without going beyond and outside the existing foot print of the existing house.

Comments and Questions:

There were no comments or questions from the board.

Interested Parties:

No interested parties were present.

Board Action:

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the variance of the required yard from the centerline of an abutting arterial street from 70 ft. to 40.2 ft. to permit an addition to an existing house (Section 403). The board found this lot containing only 7,000 sq. ft. or 50'-0" x 140'-0" lot was platted and built in approximately 1939. The addition proposed is in line with the existing house and will be as per plan 7.6. The size of the lot and the existing house are reasons of extraordinary and exceptional conditions or circumstances peculiar to this land, structure or building involved and literally the enforcement of the terms of the code would result in unnecessary hardship. That such extraordinary and 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 purpose of the spirit or intent of the code or comprehensive plan. The board also found there is adequate livability space and that some of these conditions are created by the house facing not only 31st Street but Detroit Avenue forming a corner lot; on the following described property:

LT 12 BLK, TRAVIS PARK ADDN

Case No. 21089-Claude Neon Federal Signs

Action Requested:

Variance of the maximum number of signs permitted in an OL district (Section 602.B.4.b) to permit two signs on a lot with one street frontage.

Location: 5705 E. 71st St.

Presentation:

James Adair, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, OK; was present to ask for a variance for a unique situation; the building was designed to have a cast stone architectural etching element on the façade containing the word "Century". The city considers the carved "Century" word a sign. The name of the building is Century and Century Bank occupies the lower floor which is a small portion of the building. The public cannot locate the bank therefore a 32 sq. ft sign permit has been applied for, knowing it would be denied due to the OL zoning but that step gave us the documentation to apply for this variance.

Interested Parties:

John Woolman, 1607 East 30th Place, Tulsa, OK; represented the ownership of the building and would like to keep the existing engraved Century sign on the building "as is" because it has always been there.

Comments and Questions:

Ms. Stead asked about the existing "drive-thru" ground sign that displayed the Century name and logo which constitutes a sign.

The board suggested eliminating the Century name and logo from the existing ground sign thus making the small sign a directional sign.

The board asked about the lighting of the Century Bank sign. Mr. Cuthbertson stated in the office district illumination is only permitted by constant light.

Board Action:

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** a variance of the maximum number of signs permitted in an OL district (Section 602.B.4.b) to permit two signs on a lot with one street frontage. Although the applicant has offered to paint the etched Century sign located over the doorway the board does not believe this is necessary. The board is approving the sign per plan 8.5 with the logo of Century Bank of Oklahoma above the etched sign; illumination of the new sign will be only by constant light. There is also an Century etched sign on the east side, however, as it is not visible from 71st Street the code does not consider it a third sign. There is a drive-up sign on posts visible from 71st Street and this shall be removed and a directional sign not showing the business name and logo may replace the present sign. The board finds that the 57,530 sq. ft. lot is more than adequate for the use; it is on a six-lane primary arterial street. The exceptional conditions and circumstances by which the Century signs were etched in the building are peculiar to this land, structure or building involved and literally the enforcement of the terms of the code would result in unnecessary hardship. That such extraordinary and 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 purpose of the spirit or intent of the code or comprehensive plan; on the following described property:

PRT LT 1 BEG SWC LT 1 TH N377.58 E131.55 S32.5 E23 S75.57 W20 S270
W134.51 POB BLK 1 & PRT SW SE BEG MOST SLY SECR LT 1 BLK 1 SUMMIT
WEST TH N270 E20S270 W20 TO POB,SUMMIT WEST

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Case No. 21090-Steve Olsen

Action Requested:

Variance of the setback requirement for a parking lot from the centerline of abutting streets from 50 ft. (Section 1302.B); a Variance to permit a church (Use Unit 5) parking lot within the required front yard in an R district (Section 1205.B.1.b); and a Variance of the maximum permitted coverage of a required front yard in the RS-3 district from 34% (Section 1303.D); all to permit existing parking lots accessory to a church use. **Location:** SE/c of E. Oklahoma Pl. and N. 67th E. Av.

Presentation:

Steve Olsen, 324 East 3rd Street, Tulsa, OK; in May 2008 a permit was issued for a parking lot that was twice as big as the one that has already been built; the church did not have enough money to build the originally permitted parking lot so a smaller lot was built. The setbacks from the property line are by feet; an office building has been built with a variance of a front yard setback which was previously approved; and a lot combination which was approved. Just recently the church received a notice from the City of Tulsa that approval for the existing parking lot is needed.

Interested Parties:

No interested parties were present.

Comments and Questions:

Ms. Stead stated that previously the Board had required screening be installed on the north, south, and east of the combined property. When Ms. Stead drove by the property being discussed she saw about five little bushes on the north side; screening was to be for shielding car headlights at night which should be three feet tall; on the east side six foot screening would be preferred. Mr. Olsen stated that is in the plan.

Mr. Boulden asked if the special exception has been granted for having the parking lot on a lot other than the one contained for principle use. Mr. Cuthbertson stated the parking lot had been approved as an accessory church use, which means it is not necessarily required parking.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** a Variance of the setback requirement for a parking lot from the centerline of abutting streets from 50 ft. (Section 1302.B); a Variance to permit a church (Use Unit 5) parking lot within the required front yard in an R district (Section 1205.B.1.b); and a Variance of the maximum permitted

coverage of a required front yard in the RS-3 district from 34% (Section 1303.D); all to permit existing parking lots accessory to a church use. Due to the unique nature and size of the lot and that it abuts three public streets the variances are necessary, the board will make this per plan 9.5 with the screening requirement of at least three feet on the north and south sides and six feet on the east side to prevent light penetration; finding extraordinary and exceptional conditions or circumstances peculiar to this land, structure or building involved and literally the enforcement of the terms of the code would result in unnecessary hardship. That such extraordinary and 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 purpose of the spirit or intent of the code or comprehensive plan; on the following described property:

LT 7 BLK 5, LT 8 BLK 5, SAINT PETER AND PAUL SUB

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Case 21091-Roy Johnsen

Action Requested:

Special Exception to permit a cigar shop and bar (UU 12a) on a lot within 150' of R zoned land (Section 701); a Variance of the spacing requirements for an Adult Entertainment Establishment from a church, school, another adult entertainment establishment, and an R district (Section 1212a.C.3); and a Variance of parking requirements for a mixed tenant commercial center (Section 1200); all to permit a cigar shop and bar in an existing commercial center. **Location:** SE/c of E. 15th St. and S. Peoria Av.

Presentation:

Roy Johnsen, 1 West 3rd Street, Suite 110, Tulsa, OK; presented three actions sought, one is a special exception to permit a bar within 150 ft. of a residential zoning district; two a variance for a spacing requirement from a school; thirdly a parking variance. The business will actually be a cigar shop, called the Cigar Box, selling cigars to the public to smoke on site along with a bar to sell drinks – mixed drinks, soft drinks, tea, or coffee. The revenues – 60% – will be from retail sales of cigars and related accessories and that is how their license is secured. Mr. Johnsen provided that the Cigar Box is proposed in an existing commercial space on the property most previously occupied by a coffee shop/restaurant. Parking was added to the property when South Quaker Avenue was closed. The Cigar Box would require 7 parking spaces in addition to that required by the previous restaurant.

Interested Parties:

Russell Hurt, 1501 West 108th Street, Jenks, OK; co-owner of two other Cigar Box shops, one located in Broken Arrow and one located in Jenks, made himself available to the board for any questions.

Robert Faust, 12011 South Quannah, Jenks, OK; six to seven customers out of ten, come in, buy cigars, and leave. A small percentage of the customers that come and stay usually start coming in around 7:00 p.m. until midnight when people stay for a cocktail.

Tammy Faust, 12011 South Quannah, Jenks, OK; addressed the fact that food is not served therefore people do not come in, order a bottle of wine with a dinner and stay. Ms. Faust also stated wine is not sold by the bottle.

Comments and Questions:

Ms. Stead asked what portion of the Cigar Box would be the bar versus the lounge area. Mr. Johnsen replied that 65% would be the bar and the retail area would be about 35%. Ms. Stead stated that the business is adult entertainment, which is categorized by code, and the spacing with another adult entertainment business is not sufficient; and parking, in the evening, is used primarily by the other bar. Mr. Johnsen stated the people parking in the lot are probably patrons of other businesses outside of the subject property because parking in the area is an issue. There were 31 parking spaces designated on the west side of Peoria and they may be used by either patrons or employees should the lot in front of the business become totally occupied.

The board asked what the operating hours would be, and they will be 10:00 a.m. to 12:00 midnight, seven days a week.

The board asked about the spacing of the business from the school. Mr. Johnsen stated the west side of the school that faces the business has a blank wall with a few windows located in the wall with no activities taking place on that side of the school; all activities take place on the east side which makes it distinguishable.

The board asked what the number of occupancy would be allowed per fire code, and it will be 80. The applicant added that there will be seating available for 35.

Board Action:

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to permit a cigar shop and bar (Use Unit 12a) on a lot within 150' of R zoned land (Section 701); a Variance of the spacing requirements for an Adult Entertainment Establishment from a church, school, another adult entertainment establishment, and an R district (Section 1212a.C.3); and a Variance of parking requirements for a mixed tenant commercial center (Section 1200); all to permit a cigar shop and bar in an existing commercial center. The board has found under the code of necessity this is classified as an adult entertainment, primarily a bar, this business is an unique cigar shop with a bar selling other accessories for cigars; they serve soft drinks, coffee, and seating capacity of 35 but no more than 80 people at any one time due to the small space which is approximately 1,912 sq. ft. The board also finds that by the applicant's statement of 60% of revenues, in the future, will come from the sale of cigars and accessories. Although the bar occupies the larger space it is not the primary business of the

applicant. The board finds that the school involved, parking lot and entrances are faced away from the Cherry Street corner. A supplementary parking lot west of the facility, along Peoria Avenue, contains 31 spaces is open to the patrons and/or employees of this Cherry Street facility. The board recognizes there is a bar in Suite 1332 which is classified as adult entertainment. In granting the special exception the board has found that it will be in harmony and spirit and intent of the code will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The applicant's presentation mentioned the nearest neighborhood association – Swan Lake – had been notified and they were neither for or against this facility. The board has found this to be a unique business and although, under the code the business must be classified as adult entertainment establishment, it is understood by the applicant's testimony there are no pool tables or dance floor; they sell cigars and drinks. Finding on the variance for extraordinary or exceptional conditions or circumstances such are peculiar to the land structure or buildings involved the literal enforcement of the terms of the code will 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 the variance to be granted will not cause substantial detriment to the public good or impair the purpose of the spirit or intent of the code or the comprehensive plan; on the following described property:

ALL BLK 8 & W30 VAC QUAKER ST ADJ ON E & W15 LTS 9 10 11 & E30 VAC ST ADJ ON W THEREOF BLK 7, ORCUTT ADDN

Action on Refund:

On **MOTION** of **WHITE**, the Board, voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the refund of \$100.00 on Case No. 21091.

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Case No. 21092-LaTwana Green

Action Requested:

Spacing Verification for a family day care home, 300 ft. from any other family day care home on the same street. (Section 402.B.5.g) **Location:** 6316 E. 5TH ST. S.

Presentation:

LaTwana Green, 6316 East 5th Street, Tulsa, OK; was present requesting to permit a home day care in neighborhood at her home.

Interested Parties:

No interested parties were present.

Comments and Questions:

Ms. Stead stated that Ms. Green had her license from the State Department of Human Services and that she was licensed for ten people; in the City of Tulsa there are only

seven children allowed and that any young children of Ms. Green's would be included in that seven. Ms. Green understood that her children were included in the seven.

Ms. Stead stated that no person other than members of Ms. Green's family could help her in her day care home; that no advertisement could be placed in the yard; and no exterior alterations could be made on the home. Ms. Green stated she understood all of the restrictions.

Ms. Stead suggested there should be no parking in the backyard, and the children should be restricted to using only the front yard because of a shed in the back yard. Ms. Green agreed.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **ACCEPT** the spacing verification for a family day care home, 300 ft. from any other family day care home on the same street. (Section 402.B.5.g); subject to the action of the board being void should another day care home be established prior to this family day care home; on the following described property:

E80 OF BLK 27, GLENHAVEN, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof

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Case No. 21094-Matt Reynolds

Action Requested:

Special Exception to permit a crematory (Use Unit 2) use in the CS district (Section 701); to permit a crematory in coordination with an existing funeral home. **Location:** 1916 S. SHERIDAN RD.

Presentation:

Matt Reynolds, 1916 South Sheridan Road, Tulsa, OK; representing Reynolds Funeral Home, no presentation was made.

Interested Parties:

No interested parties were present.

Comments and Questions:

Ms. Stead stated the board had previously approved this request in 2000

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to permit a crematory (Use Unit 2) use in the CS district (Section 701); to permit a

crematory in coordination with an existing funeral home; finding that the special exceptions will be in harmony with the spirit and intent of the code will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The board has approved this application per plan 12.8. Finding also that this was approved in 2000, Case 18793, and that permission expired because of lack of application; on the following described property:

**PRT LT 2 BEG 735.78S NEC TH W612.51 S139 E612.47 N139 POB BLK 2 , LYNN
ADDN**

NEW BUSINESS:

None.

BOARD MEMBER COMMENTS:

None.

There being no further business, the meeting adjourned at 3:25 p.m.

Date approved: 6/22/10



Chair