

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1031
Tuesday, August 24, 2010, 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 Stead Tidwell, Secretary Van De Wiele White, Vice Chair	None	Alberty Cuthbertson Sparger	Boulden, Legal Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Tuesday, August 19, 2010, at 10:41 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 (Henke, Stead, Tidwell, White, Van De Wiele "aye"; no "nays"; no "abstentions") to **APPROVE** the **Minutes** of August 10, 2010 (No. 1030).

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UNFINISHED BUSINESS

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NEW APPLICATIONS

Case No. 21108-Susan Poe Dixon

Action Requested:

Appeal the determination of an administrative official in issuing a residential building permit for a 'new residence'. **Location:** 2640 South Columbia Place

Mr. Tidwell recused himself from this case and left the room.

Pat Boulden, Legal Counsel, suggested Mr. Schuller outline the issue as he sees it so the opposition could address the specific issue.

Presentation:

Steve Schuller, 1100 OneOk Plaza, 100 West 5th Street, Tulsa, OK; provided that the city issued the building permit for the structure in question, and as the building was being built, the neighbors met with the city to inquire exactly what type of building was being built. The Director of Development Services sent a letter to the owner stating a Certificate of Occupancy would not be issued for the building until the matter went before the Board of Adjustment for a determination of proper use of property. On May 26th the Director of Development Services issued a temporary occupancy permit for the Memorial Day weekend. On June 1st, the Director of Development Services notified Mr. Schuller that a Zoning Clearance Permit had been issued for the property. Mr. Schuller filed an appeal with the Development Services office and with the Board of Adjustment office on June 2nd. A Certificate of Occupancy had been issued on June 3rd, and Mr. Schuller did not see that document until weeks after issuance. Mr. Schuller stated the description of the property's use as stated on the Zoning Clearance Permit is not an accurate description of the use being made of the property. The use being made of the property does not conform to or comply with the requirements and the restrictions of the Zoning Code. There are two key components of the Zoning Code that are being violated. One is that the property is not a single-family residence, and the other is the property does not utilize the proper exterior finish materials as required.

Interested Parties:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated that the conundrum of what is unclear and difficult procedurally for the applicant is that the appeal was filed on June 2nd and the activities to be appealed are from June 2nd and back, not June 2nd and forward.

Mr. Schuller stated an amended notice of appeal on the Zoning Clearance Permit was filed on June 4th, which the staff will have a copy of in the file. The Director of Development Services did not notify him until much later that the Development Services Office was issuing a Certificate of Occupancy and that he needed to directly appeal from that instrument also. Mr. Schuller stated he has effectively done so because he filed an amended appeal and served both offices on June 4th.

Mr. Reynolds stated he has a problem with Mr. Schuller's statement because it conflicts with the record. Mr. Reynolds stated he had a copy of an amended appeal document that shows it was filed on June 2nd, and that he does not have a June 4th filing or any appeal of the Zoning Clearance Permit; the June 2nd document is what was transmitted into the record.

Mr. Schuller stated he has a copy of delivery documents showing the amended appeal was filed on June 4th with the Board of Adjustment and with the Development Services office. The appeal was filed from the permits that he was informed had been issued.

Mr. Schuller presented the Board and staff with copies of building plans that the Zoning Clearance Permit was issued on; letters from neighbors which support the appeal; and also relevant zoning code sections. Mr. Schuller stated the building plans refer to the structure as the Coretz garage throughout; page FP.01 shows the building plans contemplate the placement of the cars in the garage. Mr. Schuller provided that when the Director of Development Services issued the Zoning Clearance Permit, the director determined the structure is a single-family dwelling, and the large room on the ground floor is a great room, or living/entertainment area, used for the display of an antique automobile collection and entertaining, neither of which uses is being conducted by the family residing in the single family residence. The owners of the antique cars live on a different property and when they entertain in the building, they still live on a different property. Even if the single family who owns the antique cars were living in the Coretz garage, the principal use of the Coretz garage is automotive storage and a maintenance garage. There are 4,500 sq. ft. on the ground floor of the building which is 85% of the floor area; the upstairs apartment is incidental use, 741.5 sq. ft., which is 15% of the building floor area. Building plan page S.01 shows a trench drain in the floor running the length of the building with compressed air jets and water faucets located on the walls, metal tool cabinets typically found in an automotive garage. It is a well-appointed space for the maintenance of the cars that can be driven in and out of the garage doors located on either end of the garage.

Mr. Schuller said he found the appellate court decided that a garage for motor vehicles on an adjoining different lot from that of the owner is not an accessory use to the principal use that is on that property. Mr. Schuller said it makes no sense that the Director of Development Services would determine this automotive garage with a 741.5 sq. ft. apartment should be characterized as a single-family residence.

Mr. Schuller also provided that according to Zoning Code, Section 1206.C.1.B states the house must be constructed of customary exterior finish materials. The materials are

defined with a specific list provided and a rusty corrugated metal roof is not listed, which the Coretz's garage has.

Mr. Schuller stated if the Board denies the applicant's appeal and affirms the Director of Development Services's decision, the Board will be setting a significant precedent.

Jack Page, Director of Development Services, City of Tulsa, 175 East 2nd Street, Tulsa, OK; provided a timeline and explained the documents pertaining to the project in question. He stated the City of Tulsa issued a combination permit referred to as a Building/Zoning Clearance Permit.

Mr. Page continued that the original permit and the addendum permit simply identified the lower floor as a great room, it did not state there was to be a storage of cars. In the plan review, the plan reviewers discovered it to be a garage and addressed issues of separation between the residence and the garage.

Later the homeowner stated the building would be used to display his art collection, which is antique cars. The Zoning Code identifies the storage of automobiles as a garage; typically this is a place where a person is operating a shop or working on the vehicles. Mr. Page stated it was his opinion the display of the antique cars was not the storage of vehicles. Ultimately it was determined that it was to be viewed as a collection for the display and entertainment of an antique vehicle collector.

On a final point, Mr. Page stated his office attempted to keep all parties involved on everything happening in conjunction with the property. On June 1st, Mr. Schuller was informed the Zoning Clearance Permit was being issued again to appropriately define the room use. An appeal was filed on June 2nd and signed by Mr. Boulden on Mr. Page's behalf. Final inspections were performed on June 2nd and June 3rd and a Certificate of Occupancy was issued on June 3rd. On June 4th the amended appeal was filed.

Ms. Stead asked Mr. Page if the neighbors could bring the case back on appeal if the owner abuses the use of the building. Mr. Page confirmed. Ms. Stead also asked if the metal roof on the building is permitted by the code. Mr. Page stated that metal roofs are being used throughout Tulsa and are now accepted as a building material.

Mr. Henke asked Mr. Page if the building complied with the building code and Mr. Page stated it did comply with the City of Tulsa's building code.

Mr. Van De Wiele questioned Mr. Page about the utilities on the outside wall and the floor drain located in the middle of the floor, whether they were factored into the decision of determining the use of the great room. Mr. Page stated they didn't factor in specifically in terms of reclassifying the room as car storage but they did factor in as to what the space was being used for.

Mr. Boulden excused himself as Legal Counsel to take care of a conference call; Mr. Mark Swiney stepped in as Legal Counsel.

Mr. Reynolds stated the Courts and Boards define a principal use and an accessory use by volume, and the antique cars only occupy about 833 sq. ft., which is far from 50%. As a procedural matter no one is living in the house at present time due to the appeal, and this appeal by code stays all further proceedings. What was appealed is the Zoning Clearance Permit and the Certificate of Occupancy.

Mr. Reynolds stated this is Use Unit 6 use, a detached single-family dwelling. He reminded the Board that by Oklahoma law, if there is any ambiguity in the definition of the Zoning Code it is to be resolved in favor of the property owner.

Mr. Reynolds provided that the code states what customary roofing materials may include. There is no effort to limit this: composition shingles; fiberglass shingles; wood shingles and clay tile. Within the neighborhood there are many slate roofs, which are not listed in the definitions. There are also metal roofs within close proximity and each one is a different color.

Mr. Reynolds continued with the definition of a dwelling unit and represented that is what this structure contains, other than the family has yet to move in because of the stay of these proceedings.

Mr. Reynolds stated there are many houses in Tulsa and other areas that have car collections inside the house; he presented pictures of these houses.

Mr. White inquired about the frequency of the moving of the automobiles, are they in static display, are they operational, and whether the cars contained fluids. Mr. Reynolds stated all the cars are operational; the cars will be in the great room 99% of the time, They are not taken and driven around because they are an art collection. Mr. Reynolds stated that water, oil, gasoline and other fluids are in the cars at all times.

Mr. Van De Wiele asked how many more cars were going to be brought in and Mr. Reynolds replied there should not be more than nine but he was not sure.

Mr. White asked if maintenance was performed on the cars, and Mr. Reynolds stated there was no more maintenance performed on the antique cars than an individual would perform at his/her own home. Maintenance would be keeping the tires aired up, charge the battery, etc.; there is not going to be heavy duty maintenance. These are pieces of art.

Susan Poe Dixon, 11415 South Sandusky Avenue, Tulsa, OK; stated she purchased the home in Woody-Crest Subdivision in 2006 because it is in a premier neighborhood. She provided that she is before the Board to fight a case that has precedent-setting

consequences, a garage next door. This garage is obviously used to store a large automobile collection. Mr. Coretz stated he will have ten cars stored in the garage, and they will be maintained to the upmost standards with specialized professionals to work on them on-site as planned by the open room, mechanical storage, air compression, etc., but by stating that a great room is decorated with antique cars and memorabilia as a decoration purpose, in granting this occupancy permit the City of Tulsa is also implying the double doors, large open-work stations, trench drain and grate in the floor and the length of the garage support the decorative aspect. She continued, seldom do works of art or other antiques have working engines that require maintenance, or can be driven in and out of a display room. Ms. Dixon stated when she found the intent of the building as an automotive garage she contacted the City, who in turn informed the owners they needed to go before the Board of Adjustment. This did not stop construction. Ms. Dixon stated she had the home listed with with no results due to the uncertainty in nature of the structure next door. Ms. Dixon provided she feels this building has significantly impacted her property value.

The Board asked Ms. Dixon if she could see any of the car storage from her property, and she stated she will be able to see the cars moved in and out. The Board then asked if it were not for the car collection would she be before the Board today. Ms. Dixon stated yes, because the building is not a single-family residence and was not intended to be so.

Robert Poe, 2131 East 29th Street, Tulsa, OK; stated he lives west of the property and is concerned about what has been built. Mr. Coretz told his daughter, Ms. Dixon, that he was building a ten-car garage and intends to use it as a guest house. Mr. Poe stated he thinks if the Board allows this structure they are acknowledging that a person can say what ever is necessary on the plans to obtain what they want and keep it. Also, the Board will be saying that a structure that has 85% of the square footage as an accessory use is okay in a residential zone. If the Board says these ten cars are an art collection, the Board will not be able to control the future art collectors.

Ms. Stead quoted the definition of a habitable floor according to the code and provided part of the definition. The floor within this building is not used for storage only, it is a habitable floor; both the top and bottom floors are habitable under the code and this Board has to look at the code.

Mr. White stated that in reference to the barn-like design and appearance of the structure in question, over the years Tulsa has seen many unusual buildings designed that the area neighbors have found offensive but they were built legally because they went by the code. There is nothing in the code that dictates what style can or can not be.

Jackie Poe, 2131 East 29th Street, Tulsa, OK; stated that any kitchen item can be removed easily regardless of the cost. The building is a warehouse for vehicles and overpowering; this will be a precedent set for many neighborhoods within the City of Tulsa. If this allowed it will damage many, many people within the city; it is an

unfortunate precedent that is being done in a neighborhood where money can be spent to create attractiveness, beauty and worth.

Rebuttal:

Mr. Schuller stated there are a couple of items that need to be addressed. Mr. Page, Director of Development Services, said they were dealing with the plans and the plans show a great room with a trench drain in the middle. To have a slanted floor with a trench drain down the middle of the floor is very unusual for a great room but not prohibited.

The Zoning Code has a list of roofing materials, and it does not state: it may. The code states it includes the materials; what the list shows in the Zoning Code is what is considered customary but it does not list rusty corrugated metal roofing. The Zoning Code also contemplates this building to be a single-family residence which is occupied by a single family; it does not contemplate a party barn to be erected for entertainment.

The photos that Mr. Reynolds presented with cars displayed inside of homes were not in a maintenance setting. None of the pictures showed a trench drain in the middle of the floor. There were no tool cabinets, or compressed air ports on the walls, and there were no water faucets on the walls, but the floors were an epoxy finish similar to the Coretz's garage. There are operational cars that need maintenance in the Coretz's garage. There are two problems with the garage; one is its use as an automotive garage and the roofing material is offensive because it is not what the Zoning Code considers to be customary.

Mr. Van De Wiele asked Mr. Schuller if it were not for the display/storage of the cars and the floor was just a hardwood floor instead of an epoxy finished floor with a trench drain, this case would be before the Board. Mr. Schuller stated the case would be before the board for the use of the rusty corrugated metal roof.

Comments and Questions:

Mr. White stated there have been cases in the past where there existed a single-family residence of modest size and the homeowner would want to build an accessory building that was quite large to store a collection, to have a woodworking shop, as long as it was non-commercial. Sometimes the Board would approve them and sometimes the Board would not, depending on where it was located, lot size, lot configuration, etc. Those property owners that were turned down could, and most time did, attach the desired building area to the house. The code is there and there are limits to it and a lot of things have pushed those limits. The Board cannot deal with the design because it is not the issue before the Board, and this does not have an HP overlay; there are no other conditions applied via the Subdivision Regulations that are a matter of law enforceability upon design. The roof issue is interesting. He asked how this Board is going to approve something that is not in the code yet acceptable.

Mr. Van De Wiele stated the rust on the roof is no different from the patina on a copper roof. People pay to have the copper roof installed so it will turn a beautiful shade of green.

Mr. Van De Wiele stated if sometime in the future, this garage becomes a warehouse it will be a Zoning Code violation, and that can be dealt with at that time.

Mr. White stated that everything is within the building with the exception of the vehicles moving in or out of the garage. This Board has denied applicants who were going to display a collection outside but this applicant will have everything inside.

Mr. Van De Wiele asked Mr. Page about the frequency of corrugated roofs installed in residential areas in Tulsa, and Mr. Page stated he did not know. Mr. Page continued that the owner wanted the look of a barn so he had the corrugated roofing material acid-washed then sealed so it is not an ongoing rust. The corrugated material is customary if a person is building a barn. The owner wanted the barn look so they used materials that are customary in the building of a barn, and the Building Permits Office has not regulated the looks of a building.

Mr. Pat Boulden, Legal Counsel, returned to the bench and Mr. Mark Swiney, acting Legal Counsel, stepped down.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Van De Wiele, White "aye"; no "nay"; no "abstentions") to **DENY** the **Appeal** the determination of an administrative official in issuing a residential building permit for a 'new residence'; for the following property:

**PRT LT 4 BEG NEC TH W75.5 CRV LF 173.75 NW92.68 NWC S121.70 E336.12
NLY141.6 POB BLK 4, WOODY-CREST SUB**

Mr. Tidwell returned to the bench.

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Case No. 21115-William LaFortune

Action Requested:

Variance of the 300 ft. spacing requirement for an Adult Entertainment Establishment (Use Unit 12a – night club) from another Adult Entertainment Establishment (Use Unit 12a – bar); a Verification of the spacing requirement for an Adult Entertainment Establishment of 300 ft. from a church, school, or park and 50 ft. from an R district (Section 1212a.C.3); and an Amendment to a condition of a previous approval for tavern use on the subject property (BOA-13336) that prohibited live entertainment; all to permit an Adult Entertainment Establishment use. **Location:** 725 & 727 North Sheridan Road East

Presentation:

William LaFortune, 1100 Min-Continent Tower, Tulsa, OK; Mr. LaFortune stated the Variance and Verification have been withdrawn because a Zoning Clearance Permit has been issued based on Case No. BOA-13336, which had been approved for a Special Exception in 1984 for the same subject property as a Use Unit 12.12.a night club. The Amendment is the only request necessary today. Mr. LaFortune asked the Board to lift the condition of no live entertainment. These two locations have been adult entertainment since the 1960s and are two spaces separated by a common wall.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Stead reminded the Board about the Community Center that had been approved a few weeks prior to this case; the restriction for them was the noise level was to be within the decibel level set by the City and no outside speakers. Ms. Stead suggested she would like to have those same restrictions set for this applicant.

Board Action:

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, White, Van De Wiele, "aye"; no "nays"; no "abstentions") to **APPROVE** an Amendment to a condition of a previous approval for tavern use on the subject property (BOA-13336) that prohibited live entertainment; to permit an Adult Entertainment Establishment use; the original application carried a Variance and a Verification, however, a Zoning Clearance Permit has been issued and nullifies the need for a Variance and Verification. The Board makes a provision there be no outside speakers and the decibel level must always be within the limits set by the City of Tulsa; for the following property:

**LOTS 1 & 2, Blk 1, WALTER SQUARE ADDN RESUB L1-24 NORTHEAST CENTER
ADDN**

Case No. 21128-EasyTel Communications, Inc.

Action Requested:

Special Exception to permit a Utility/Communications facility (Use Unit 4) in an RS-3 district (Section 401); and a Variance of the Landscape Requirements (Section 1002/1003). **Location:** 6304 East Apache Street

Presentation:

Chuck Hanson, 5918 East 31st Street, Tulsa, OK; stated he was before the Board to ask for a Special Exception to permit a utility communication facility in an RS-3 district and to ask for a Variance of the landscaping requirement. He stated the facility is an unattended and secured communication hub housing fiber-optic lines that are connected to serve people in the area.

Interested Parties:

Rob Collins, Easy-Tel Communications, Inc., 7335 South Lewis Avenue, Tulsa, OK; provided he is the Operations Manager and he stated the building is to house video, data, and communications equipment to provide services to commercial entities near and around the airport. This particular hub is designed to take the signal from the 7335 South Lewis office and boost it so it will be able to provide the data to the airport area.

Comments and Questions:

Ms. Stead stated she wanted it shown the applicant has moved the building back 85 ft. back from the centerline of Apache.

Board Action:

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, White, Van De Wiele, "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to permit a Utility/Communications facility (Use Unit 4) in an RS-3 district (Section 401); and a Variance of the Landscape Requirements (Section 1002/1003); finding the building involved contains no physical tower, that it will be enclosed in an eight ft. chain link fence and the gate will be continually locked; per conceptual plan dated May 10, 2010 providing for a setback from the centerline of Apache of 85 ft.; the exterior of the building will be aggregate as shown on the plan; providing for a concrete driveway to the facility from Apache. The Board approves the variance on the landscape requirements because the building has been moved back from Apache; this corner is unique and the Board feels the existing landscape is sufficient. In granting the Variance the Board has cited extraordinary and exceptional conditions 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. In granting the Special Exception the Board has found it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

A tract of land situated in the W/2 of the NE/4 of the NE/4 of Section 27, Township 20 North, Range 13 East of the Indian Base and Meridian in Tulsa County, Oklahoma and more particularly described as follows to-wit: Commencing at the Northeast Corner of said W/2 of the NE/4 of the NE/4. THENCE South 88 degrees 49 minutes 21 seconds West for a distance of 271.60 feet and along the North Line of said W/2 of the NE/4 of the NE/4; THENCE South 01 degrees 10 minutes 39 seconds East for a distance of 60.00 feet to the POINT OF BEGINNING. THENCE South 01 degrees 10 minutes 39 seconds East for a distance of 49.52 feet to a point on the Northerly Right-of-Way of the Gilcrease Expressway; THENCE North 50 degrees 57 minutes 47 seconds West for a distance of 37.98 feet and along said right-of-way; THENCE North 01 degrees 10 minutes 39 seconds West for a distance of 25.00 feet and along said right-of-way; THENCE North 88 degrees 49 minutes 21 seconds East for a distance of 29.00 feet and along said right-of-way to the POINT OF BEGINNING. Together with and subject to covenants, easements, and restrictions of record.

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Case No. 21129-Tanner Consulting

Action Requested:

Amendment to a previously approved site plan for an elementary school in an R district to permit a building addition and site modification. **Location:** 1740 North Harvard Avenue

Presentation:

Matt Baer, Tanner Consulting, 5323 South Lewis, Tulsa, OK; represented Tulsa Public Schools and asked for an Amendment to a previously approved site plan for Clinton Elementary School. In 1992 the Board approved a Special Exception to permit the existing facility to expand. In 1997 the Board approved a Minor Special Exception to amend the previous approved site plan. The school wants to expand again with the addition of classrooms, a library, a new kitchen, and an additional parking area.

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, Stead, Tidwell, White, Van De Wiele, "aye"; no "nays"; no "abstentions") to **APPROVE** the Amendment to a previously approved site plan for an elementary school in an R district to permit a building addition and site modification; per conceptual plan 5.5; with three existing manufactured buildings located on the southeast corner to remain in place and the other four manufactured buildings to be removed from the property; 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 described property:

The N/2 of SE/4 of SE/4 of SEC 29, T-20-N, R-13-E, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21130-Omero & Dulce Gomez

Action Requested:

Special Exception to permit a carport in the required front yard in an RS-3 district (Section 210.B.10). **Location:** 1450 North Delaware Avenue East

Presentation:

Jose Arroyo, Spanish Interpreter for Dulce Gomez, 1157 North Birmingham Avenue, Tulsa, OK; stated Ms. Gomez is wanting to keep her carport for the home she is buying but she will cut down the length of the existing carport.

Paul McKnight, 8800 North 161st Street, Owasso, OK; Mr. McKnight wanted to let the Board know he is in favor of a modified carport. Mr. McKnight is the former home owner and he stated there were other carports of different sizes and types in the area.

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, Stead, Tidwell, White, Van De Wiele, "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to permit a carport in the required front yard in an RS-3 district (Section 210.B.10); per plan 6.6 with the condition that the existing sheathing on both sides of the carport will be removed; 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 described property:

LT 1 BLK 5, FRIENDLY HOMES ADDN

Case No. 21131-John Duvall

Action Requested:

Variance of the building setback requirement from the centerline of E. 2nd St. from 50 ft. to 40 ft. (Section 903); a Variance of the setback for a parking area not in an R district but within 50 ft. of an R district from the centerline of abutting streets from 50 ft. to 35 ft. (Section 1302.B); and a Special Exception to modify the screening requirement for a Use Unit 15 use from abutting R districts to the north and east (Section 212.C). **Location:** SW/c of East 2nd Street and South Trenton Avenue

Presentation:

Heidi Sherrill, Duvall Architect, 1820 South Boulder Avenue, Tulsa, OK; represented Luis Santiago, the owner. The building will be a painting shop which will house painting equipment and products, and will have a storage/work room. The building will be serving two purposes; half of the building will be an office and shop for the painting services, and the other half will be a residence and offices. The majority of the painting will be offsite but there will be small millwork painting on site; primarily the business side will be storing the painting products and equipment.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Stead stated if there were to be spray painting in the building the applicant would need to comply with the EPA standards. Mr. Cuthbertson stated that whether the room is a work room or a paint room the applicant will still need to submit building plans, and those plans will be scrutinized and made to meet building code requirements.

Ms. Stead asked whether the building was going to be a metal building; Ms. Sherrill stated it was going to be a combination layered look.

Board Action:

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, White, Van De Wiele, "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the building setback requirement from the centerline of E. 2nd St. from 50 ft. to 40 ft. (Section 903); a Variance of the setback for a parking area not in an R district but within 50 ft. of an R district from the centerline of abutting streets from 50 ft. to 35 ft. (Section 1302.B); and a Special Exception to modify the screening requirement for a Use Unit 15 use from abutting R districts to the north and east (Section 212.C); the Board has found that the comprehensive plan identifies the subject property as part of an employment area and an area of growth. These employment areas contain office, warehousing, light manufacturing, and high tech uses such as information technology. The Board believes this facility will be in compliance with the comprehensive plan. Also, traditionally, the building patterns established in these older areas cover larger portions of narrow and smaller lots with buildings built up to the property line. The 2nd Street area has seen a variety of uses located in buildings that generally appear to be situated closer to the

street supporting a variance of the setback requirement. The Board sets the following conditions: the screening on the east side shall be a height of at least 3 ft. 6 in. in the parking area in order to shield car lights from the neighborhood; subject conceptual plan 7.7; the existing sidewalks on 2nd Street and on Trenton are to be maintained in smooth walking condition; and any lighting on the property shall be directed down and away from the residential area. 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 1 BLK 4, LT 2 BLK 4, MIDWAY ADDN

OTHER BUSINESS:

None.

NEW BUSINESS:

None.

BOARD MEMBER COMMENTS:

None.

There being no further business, the meeting adjourned at 3:50 p.m.

Date approved: 9/14/10

Frank X. Hernandez
Chair