

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1039
Tuesday, January 11, 2011, 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 White, Vice Chair Van De Wiele		Alberty Cuthbertson Sparger	Boulden, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, January 5, 2011, at 11:17 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, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the **Minutes** of December 14, 2010 (No. 1038).

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NEW APPLICATIONS

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Case No. 21197-Joel Kantor

Action Requested:

Variance of the side yard requirement in the RS-2 district (Section 403) from 5 ft. to 2.5 ft. to permit an addition to the north side of an existing dwelling. **Location:** 4504 South Louisville Avenue East

Presentation:

No presentation made; applicant requested a continuance.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Cuthbertson informed the Board that the applicant had requested a continuance due to a scheduling conflict.

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 **CONTINUE** to January 25, 2011 the request for a Variance of the side yard requirement in the RS-2 district (Section 403) from 5 ft. to 2.5 ft. to permit an addition to the north side of an existing dwelling; for the following property:

LT 10 BLK 20, PATRICK HENRY B13-23, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21195-Tommy Huddleston

Action Requested:

Special Exception to permit a bar (Use Unit 12a) on a lot within 150 ft. of R zoned land to the east (Section 701); and a Verification of the spacing requirement for a Use Unit 12a - bar use of 50 ft. from an R district, 300 ft. from a public park, school, or church, and 300 ft. from any other Adult Entertainment Establishment (Section 1212a.C.3). **Location:** 4133 South Peoria Avenue East

Presentation:

No presentation made; applicant requested a continuance.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Cuthbertson informed the Board that it was determined that the applicant needs additional relief in order to permit the bar use in this property. The additional relief will need a new notice.

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 **CONTINUE** to February 8, 2011 the request for a Special Exception to permit a bar (Use Unit 12a) on a lot within 150 ft. of R zoned land to the east (Section 701); and a Verification of the spacing requirement for a Use Unit 12a - bar use of 50 ft. from an R district, 300 ft. from a public park, school, or church, and 300 ft. from any other Adult Entertainment Establishment (Section 1212a.C.3); for the following property:

LTS 1 & 2 BLK 4, JENNINGS-ROBARDS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21199-Johnny Stamps

Action Requested:

Special Exception to permit a retail industrial supply company (Use Unit 15) in a CS district (Section 701). **Location:** 4001 West Edison Street

Presentation:

No presentation was made; applicant has withdrawn this case because the buyer is no longer pursuing this property.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

None.

UNFINISHED BUSINESS

Case No. 21148-Curtis Connors

Action Requested:

Special Exception to permit a paint ball park (Use Unit 20 - Commercial Recreation) in an AG district; and a Variance of the paving requirement for parking and driving surfaces (Section 1303.D). **Location:** 1328 South 193rd Avenue

Presentation:

No presentation made, applicant was not present.

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, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **DENY** the Special Exception to permit a paint ball park (Use Unit 20 - Commercial Recreation) in an AG district; and a Variance of the paving requirement for parking and driving surfaces (Section 1303.D); for the following property:

S990 W/2 SW NE & A TRACT BEG SECR SE NE TH N593.27 SW148.53 SW88.57 SW63.06 SW161.24 SW46.16 SW877.58 S405.06 E1322.31 POB LESS BEG SECR NE TH SW134.19 NE344.98 NE695.92 NE68.74 NE174.14 NE52.65 NE69.50 NE136.45 S533.27 POB SEC 12 19 14, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21177-Randy Jackson

Action Requested:

Special Exception to permit a community group home (Use Unit 8) in an RS-2 district (Section 401). **Location:** 8234 South Sandusky Avenue East

Presentation:

No presentation was made; applicant was not present.

Interested Parties:

There were no interested parties present.

Comments and Questions:

This application was previously withdrawn and the applicant has requested a full refund.

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 request for a full refund of \$551.00; for the following property:

LT 12 BLK 5, BROOKWOOD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21181-Oscar Garcia

Action Requested:

Special Exception to permit a multifamily residence in an OL zoning district (Section 601). **Location:** 1313 East 60th Street

Presentation:

Ofie Seymour, 8206 South 43rd West Avenue, Tulsa, OK., realtor and interpreter for Oscar Garcia, 5809 South Peoria, Tulsa, OK; stated the proposed building will be two stories with twelve apartment units, each having two bedrooms and one bath.

Mr. Cuthbertson stated the property is zoned OL and multifamily dwellings are governed by the bulk and area requirements of the RM-1 district; according to the size of the subject lot there could only be nine one-bedroom units permitted. That does not account for required parking.

Mr. Alberty stated with a quick calculation of the lot size, there would only be seven two-bedroom units or nine one-bedroom units permitted.

Mr. White asked staff whether the Board could rule on this case today because there is not an adequate site plan showing the layout of the proposed building. Mr. Cuthbertson stated the decision to rule today is up to the Board because Mr. Garcia is requesting a Special Exception to permit a use, a change or modification to the principal uses allowed on the OL zoned lot. In general, if the Board is comfortable with the concept, they can approve the use subject to Mr. Garcia meeting bulk and area requirements. But if the Board is sensitive as to what type of units, the design of the building, or the layout of the building, the Board can ask for more detail on the site plan.

Interested Parties:

Duane Suchy, 4821 South Sheridan, Tulsa, OK; stated he is the realtor who has the listing to the subject property. He supports the applicant's request because it will be a very good use of the property.

Comments and Questions:

None.

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 multifamily residence in an OL zoning district (Section 601), making this approval subject to page 4.8, which shows a privacy fence on the east, west and north sides of the subject property and the fence is to be between six and eight feet in height. The Board is specifically not approving the site plan on page 4.8 in other respects, as the plan exceeds maximum allowable use under the code. The Board does require a sidewalk on the south side be constructed for the entire limit of the property. The Board does find 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; for the following property:

E 138 LT 10, SOUTHLAWN ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21182-Global Sign Solutions

Action Requested:

Variance of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign for a church in the RS-3 district (Section 402.B.4); and Approval to permit a sign to be located in the right-of-way (Section 1221.C.14). **Location:** 1438 South Indianapolis Avenue

Presentation:

Richard Craig, 1889 North 105th East Avenue, Tulsa, OK; stated the previously submitted site plan has been amended showing the setback to be 70 feet instead of 20 feet. He stated the sign is now 20 feet from the face of the curb on 15th Street. The footprint of the sign is eight feet and has been moved back approximately eight feet. The church has a removal contract for the existing sign and will have a license agreement for the new sign.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

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 requirement that illumination of a sign shall be by constant light to permit an LED element on a sign for a church in the RS-3 district (Section 402.B.4); and the Approval to permit a sign to be located in the right-of-way (Section 1221.C.14). This last approval is based on the assumption that a new license agreement with the City of Tulsa will be necessary

because the location of the sign has been moved. The Board has found that the row of trees in the median of 15th Street will adequately buffer any light from the proposed sign as the sign will be read from east to west only and therefore shielded from the residential area to the south. This approval is subject to no flashing, scrolling or rolling signage; any movement of information will be horizontally left to right, subject to Section 1221.C.2.D through H will be applicable to this approval. This approval is also subject to page 5.10 for sign design only, and subject to the exhibit submitted today showing the sign is 20 feet from the curb of 15th Street and 73 feet from the centerline of Indianapolis Avenue. In granting this Variance the Board finds by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

LTS 3, 4, & 5, BLK 3, SUMMIT HGTS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No. 21187-Impact Engineering and Planning

Action Requested:

Special Exception to permit a Community Center (Use Unit 5) in the RS-3 district (Section 401); a Variance of the required yard abutting a public street from S. 43rd W. Av. (Section 403); a Variance of the minimum building setback for a community center from an abutting R zoned property from 25 ft. to 5 ft. (Section 404.F.4); a Special Exception to modify and remove the screening requirement for a parking area within 50 ft. of an R district (Section 212.C); and a Variance of the setback for parking areas from the centerline of abutting streets (Section 1302.B). **Location:** West of the SW/c of West 55th Place and South 41st West Avenue

Presentation:

Kevin Vanover, 109 North Birch, Suite 200, Owasso, OK; stated this proposed building is for the Greater Cornerstone Community Center. The building is a roughly 20,000 sq. ft. facility and will be built in west Tulsa. The center will provide a gymnasium, medical clinical type care, day care, and a community meeting room.

Ms. Stead asked Mr. Vanover if a sidewalk for the north side, 55th Place, was included in the plans of the Community Center. Mr. Vanover stated that 55th Place is a very low volume street, currently with no curb or gutter and there are borrow ditches on both sides. The front sidewalk will be connected to the street but the Community Center does not own the frontage all the way to 41st Street, so there would be a very short

segment of sidewalk. Unless the City of Tulsa came in at a later date to make the connection to 41st Street a sidewalk would be a sidewalk from nowhere to nowhere.

Mr. Cuthbertson stated that this new Special Exception request triggered the platting requirement so sidewalks will be required in that process, but the sidewalk decision today will be left to the Board to decide.

Mr. Alberty stated that sidewalks would be required on 55th Place and on 56th Street, which is a subdivision requirement. However, the Community Center can request to have the sidewalks waived.

Ms. Stead asked Mr. Vanover exactly where on the subject property he is asking for the screening requirement to be waived. Mr. Vanover stated it is the eastern boundary of the property because a car would be entering in and leaving from the west, therefore, there would be no headlight glare to be screened. There is a screening fence proposed for the north side of the appendage style parking lot because the cars would be facing the housing in that lot. Currently there is a fence surrounding the northern Habitat for Humanity house but there is nothing around the other three Habitat for Humanity houses.

Mr. Cuthbertson stated there is no screening requirement for a Use Unit 5 use from an abutting R district. The screening requirement is for parking lots containing six or more spaces within 50 feet of an R district.

Ms. Stead asked Mr. Vanover if the stormwater detention area was going to be fenced in. Mr. Vanover stated that it would be secure in the sense that no one will be able to go from the parking area or into the building plaza area. The wet pond will be a signature feature of the front of the facility, and fencing the area has not been considered at this time.

Mr. Alberty stated that the Community Center may have to reconsider fencing the wet pond because there is a proposed children's day care within the center, and the wet pond may be subject to permitting requirements.

Mr. White asked how deep the pond would be and Mr. Vanover stated it is planned to be four feet from the bank to the surface water and four feet deep with a fountain in the middle of the wet pond.

Mr. Vanover stated the children's day care area will be fenced in. Therefore, while the child is at the facility the child will be behind a fenced in playground area. Mr. Vanover was sure the owner would accept a fencing project that would take away from the feature but would be a safety measure around the wet area.

Barry Goldstein, Project Architect, 618 East 3rd Street, Tulsa, OK; asked that any required fencing around the pond be allowed to be of an open design.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

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 Community Center (Use Unit 5) in the RS-3 district (Section 401); a Variance of the required yard abutting a public street from S. 43rd W. Av. (Section 403); a Variance of the minimum building setback for a community center from an abutting R zoned property from 25 ft. to 5 ft. (Section 404.F.4); a Special Exception to modify and remove the screening requirement for a parking area within 50 ft. of an R district (Section 212.C); and a Variance of the setback for parking areas from the centerline of abutting streets (Section 1302.B). The Board has found that these requests are very similar to those made in a previous Board action in Case No. BOA-19975, dated May 10, 2005 with some exceptions. The Board finds it is within the spirit and intent of the original approval and subject to the following: there will be 6'-0" screening fences between the subject property and the R district for the existing western residence. The Board is waiving the screening requirement to the west of the Habitat for Humanity residences. If not otherwise prohibited by Stormwater Management the Board requires that the stormwater detention wet area be fenced and gated; this is subject to conceptual plan 6.10. In granting these Variances the Board has found there are extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, and the proposed use so that 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 Exceptions 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:

LTS 1 THROUGH 10 BLK 13; AND LTS 18 THROUGH 26, BLK 13; OPPORTUNITY HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

Case No. 20412-B-Tallys Java N Juice

Action Requested:

Variance of the required parking to 17 spaces to permit an addition to an existing health club and smoothie bar (Section 1219.D). **Location:** 4821 East 11th Street South

Presentation:

Rodney Caldwell, R C Construction, 972 Chickasaw Road, Sand Springs, OK; represented the applicant.

Ms. Stead asked Mr. Caldwell if he was familiar with the previous approval of the variance. Mr. Caldwell stated he was familiar with it but that it had been approved under a different contractor. Ms. Stead stated that under the previous approval the owner was to have a meeting with Will Rogers Methodist Church to acquire additional parking spaces and have a letter formatted to attest to the agreement but the letter has never been presented to the Board of Adjustment. Ms. Stead stated that without the letter she would not be willing to approve another request.

Interested Parties:

Tally Alame, 4821 East 11th Street, Tulsa, OK; stated he is the owner of Tallys Java N Juice, and he has a copy of the letter in question, but not with him. Mr. Alame stated he thought a copy of the letter from Will Rogers Methodist Church had also been sent to the Board of Adjustment.

Mr. Henke asked Mr. Alame if he could bring a copy of the letter to the next hearing, and Mr. Alame stated yes.

Comments and Questions:

None.

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 **CONTINUE** Case No. 20412-B to January 25, 2011 giving the owner time to present a letter showing he has additional parking space at Will Rogers Methodist Church; for the following property:

PRT SE SE BEG 35N & 50W SECR SEC 4 TH W150 N115 E150 S115 POB SEC 4 19 13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No. 21190-Bill Powers

Action Requested:

Minor Special Exception to permit a 5 ft. reduction of the 35 ft. required front yard in the RS-1 district (Section 403). **Location:** 1720 East 30th Place South

Presentation:

Bill Powers, 6910 South Lewis Avenue, Tulsa, OK; his client is remodeling the home and wants to add a front porch to the home.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

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 Minor Special Exception to permit a 5 ft. reduction of the 35 ft. required front yard in the RS-1 district (Section 403); subject to conceptual plan 8.6. 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:

W27 OF LT 11 ALL OF LT 12 BLK 18,FOREST HILLS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No. 21191-Bill Powers

Action Requested:

Variance of the rear yard requirement from 20ft. to 5ft. (Section 403) to permit a garage and work space addition. **Location:** 1124 East 49th Street South

Presentation:

Bill Powers, 6910 South Lewis Avenue, Tulsa, OK; no presentation made.

Ms. Stead confirmed that the existing detached building is to be removed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

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 rear yard requirement from 20 ft. to 5 ft. (Section 403) to permit a garage and work space addition. This proposed 770 sq. ft. garage addition shall be located in the southeast corner of the existing dwelling and in accordance with conceptual plan 9.6. The existing small detached building behind the dwelling is to be removed, as the addition itself covers 29% of the required rear yard. The Board has found that this lot is shallow and contains 120 ft. in depth. It contains only 7,800 sq. ft with the front of the house set back farther than usual, limiting the space on which to have a garage. In granting this variance the Board finds by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

LOT-8-BLK-15, RIVERVIEW VILLAGE B14-20, CITY of TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21192-Vanessa Somerville

Action Requested:

Verification of the spacing requirement for an Adult Entertainment Establishment of 50 ft. from an R district and 300 ft. from a public park, school or church (Section 1212a.C.3); a Variance of the spacing requirement for an Adult Entertainment Establishment from another Adult Entertainment Establishment (Section 1212a.C.3); and a Variance of the parking requirement from 23 parking spaces (Section 1200). **Location:** 1323 East 6th Street

Presentation:

Vanessa Somerville, 1123 Xanthus Place, Tulsa, OK; stated she is proposing a bar with music and art gallery; the displayed art will be for sale to patrons and the general public. Currently the area is mainly industrial but there will be a café opening on the corner of 6th and Peoria, plus there are two other art galleries in the area. Ms. Somerville stated that by bringing art to a bar it will allow the public that generally do not visit art museums to see art because people do visit a neighborhood bar.

Interested Parties:

Theron Warlick, City Planner, City of Tulsa, 175 East 2nd Street, Tulsa, OK; stated the Eclipse Bar that is near the proposed bar has closed. The establishment is reopening as a 3.2 beer bar. The spacing requirements for this area would be a hardship for the applicant because this area was developed much more compactly than the rest of the city, and that should be considered for this request.

Derek Dyson, 424 South Troost Avenue, Tulsa, OK; stated he is in favor of the proposed neighborhood art bar.

Jamie Jameson, 754 South Norfolk Avenue, Tulsa, OK; stated he supports the proposed art bar. He is not opposed to two bars being close to one another, because the area is looking for businesses that will bring density and foot traffic to the area. A neighborhood urban design committee working on a form based code for the area is concerned about some separation of uses but not in terms of adult-oriented businesses, such as this bar, that will recreate what was once a very compact, walkable neighborhood. As a result of that the committee is very pleased to have businesses close to one another. The future of 6th Street is seen as a highly versatile mixed use corridor and small retail businesses will be essential to the area.

Comments and Questions:

None.

Mr. Van De Wiele stepped out of the meeting at 2:35 P.M., and announced that he will recuse himself from the next case, Case No. 20814-A. Mr. Van De Wiele also stated he supports this case, Case No. 21192.

Ms. Stead asked Mr. Alberty to confirm that the spacing requirement would be dispensed away with if the Pearl District Form Based Code was accepted as it is now being presented. Mr. Alberty stated that is true and the only clarification he would make on this is that the pilot project would not include this particular property because the Form Based Code has two parts; it has a text and a regulating plan. It is anticipated that the second portion of the Pearl District will be forthcoming. He wants the Board to understand and not to imply that this is part of the first phase; it would be in phase two of what is anticipated to be an adopted phase two of the Form Based Code.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, White "aye"; no "nays"; no "abstentions") to **ACCEPT** the Verification of the spacing requirement for an Adult Entertainment Establishment of 50 ft. from an R district and 300 ft. from a public park, school or church (Section 1212a.C.3); and **APPROVE** the Variance of the spacing requirement for an Adult Entertainment Establishment from another Adult Entertainment Establishment (Section 1212a.C.3); and a Variance of the parking requirement from 23 parking spaces (Section 1200). The Board has found that the comprehensive plan for this area and the area of growth designation is to be honored in considering the code requirements, especially from one adult entertainment establishment to another adult

entertainment establishment. It is believed by this Board that within a period of time the Form Based development plan emerging will cover this property and that no variance as to adult facility spacing will appear in the new code. The Board has found that this is within 157 feet of another adult entertainment establishment. The Board has found that with granting these variances there are 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. The Board further moves, based upon the facts in this matter as they presently exist, to accept the applicant's verification of spacing for the proposed adult entertainment establishment from an R district, church, school, and park, subject to the action of the Board being void should another such conflicting use be established prior to this adult entertainment establishment and the Board makes these approvals for a period of two years from today's date, January 11, 2011; for the following property:

E66 S72 LT 5 LESS BEG 65.5W SECR THEREOF TH N18.5 E0.8 N45.5 W1.3 S64 E0.5 POB BLK 8,FACTORY ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No. 20814-A-William Doyle, III

Action Requested:

Special Exception to modify the height of a fence/wall in the required front yard in an RE district to 8 ft. - 8 in. (Section 210.B.3); and a Modification of a previously approved plan and condition related to the setback for a fence/wall from the centerline of an abutting street. **Location:** 1356 East 27th Place

Presentation:

William Doyle, 401 South Boston Avenue, Suite 1810, Tulsa, OK; stated he would like to be granted his request for modification to set the fence back 25 ft. from the centerline of 27th Place and to change the fence to a stucco wall. Mr. Doyle also stated he wants to modify the height of the wall to 8'-8" from the previously approved 8'-0". The 8'-8" height actually pertains to the gate posts, and those posts are set back another 12 feet from the wall making the posts' setback from the centerline 37 feet of 27th Place.

Interested Parties:

There were no interested parties present.

Mr. Pat Boulden stepped out of the meeting at 2:45 P.M.

Comments and Questions:

None.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Henke, Stead, Tidwell, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to modify the height of a fence/wall in the required front yard in an RE district to 8 ft. - 8 in. (Section 210.B.3); and a Modification of a previously approved plan and condition related to the setback for a fence/wall from the centerline of an abutting street. The Board finds that this new height and setbacks are just modifications and meet the intent of the original approval on December 9, 2008. The 2'-0" pillars or any portion of the wall shall not exceed 8'-8" which is the height of the gate posts. The lower portions will be no more than 6'-8" as shown on page 11.8. The Board finds that this historical neighborhood contains numerous other walls or tall plantings in front of and/or around the properties. It is noted that the gate will be set back an additional 12 feet from the previous approval. In granting this Special Exception the Board finds 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. In granting the modification it too is in harmony with the spirit and intent of the Code; subject to conceptual plan 11.7 and 11.8; for the following property:

**PRT GOV LT 3 BEG 1650N & 660E SWC SW TH N330 E162.5 S330 W162.5 POB
SEC 18 19 13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

Mr. Pat Boulden came back into the meeting at 2:48 P.M.

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Case No. 21196-Margarite Salazar

Action Requested:

Special Exception to permit a carport in the required front yard in an RS-4 district (Section 210.B.10). **Location:** 416 South Victor Avenue

Presentation:

Mark Salala, 416 South Victor Avenue, Tulsa, OK; stated he had a contractor build the carport.

Ms. Stead stated that when a person hires a contractor the contract will state that it is up to the homeowner to obtain all permits that are necessary. Most carports and fences are not permitted in the front yard, and this carport is not permitted in the front yard.

Ms. Stead suggested Mr. Salala and Ms. Salazar speak with staff for alternatives to the situation.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Stead, Tidwell, White "aye"; no "nays"; no "abstentions") to **DENY** the Special Exception to permit a carport in the required front yard in an RS-4 district (Section 210.B.10) based on the fact that the carport that is in place is out of character for the neighborhood; for the following property:

LTS 7 & 8 BLK 12, ABDO'S ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No. 21198-Brandy S. Miller

Action Requested:

Verification of the spacing requirement for a family day care home of 300 ft. from another family day care home on the same street (Section 402.B.5.g). **Location:** 4618 South 85th Avenue East

Presentation:

Brandy Miller, 4618 South 85th East Avenue, Tulsa, OK; no presentation made.

Interested Parties:

No interested parties were present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Stead, Tidwell, White "aye"; no "nays"; no "abstentions") to **ACCEPT** the Verification of the spacing requirement for a family day care home of 300 ft. from another family day care home on the same street (Section 402.B.5.g), subject to the action of the Board being void should another family day care home be established prior to this day care home; for the following property:

LT 70 BK 2, REGENCY PARK WEST, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21200-Dorothy Hampton

Action Requested:

Special Exception to permit a carport in the required front yard (Section 210.B.10) in the RS-3 district. **Location:** 10728 East 20th Street South

Presentation:

Dorothy Hampton and Arthur Davis, 10728 East 20th Street, Tulsa, OK; Ms. Hampton stated she hired a contractor and the carport was erected on November 3, 2010.

Ms. Stead stated that no carport can be erected in the front yard without the Board of Adjustment approval. Mr. Davis stated the City of Tulsa had issued a permit then denied the permit.

Mr. Henke asked Mr. Davis who the carport contractor was and he stated it was Custom Carports. Ms. Stead told Mr. Davis that carport and fence contractors will tell the client they are responsible for the permit but will install the carport or fence any place.

Mr. Cuthbertson stated the permit was issued by the City on November 24, 2010 but it was obviously issued in error. The permit office caught the error after the fact and now Mr. Davis and Ms. Hampton are before the Board for approval of an erected carport.

Mr. Boulden asked how this case came before the Board after the permit had been issued. Mr. Davis stated they had received a citation from Neighborhood Inspections. Neighborhood Inspections told Mr. Davis and Ms. Hampton to go to the City permit office, and they did. Then the permit office denied the permit, and the permit office told Mr. Davis and Ms. Hampton to speak with Mr. Cuthbertson at INCOG.

Ms. Stead stated the City has made an error and she stated she normally does not tell an applicant what a solution might be to their problem, so she asked Mr. Boulden if Mr. Davis could remove the carport from the front yard and rebuild it in the back yard. Mr. Boulden did not know if the carport could be installed in the back yard, but stated his concern is that a Zoning Clearance Permit was issued, the decision was made that the carport complies with the Zoning Code and no one appealed that decision within the time period allowed. So Mr. Davis and Ms. Hampton could have an argument that the City permitted this and it was not challenged, therefore, they do not need Board approval. Mr. Boulden suggested if Code Enforcement or Inspections wants to enforce the citation they need to speak with the City Legal Department to determine whether the citation can be enforced.

Mr. Henke asked whether it was the carport company or the applicant who applied for the permit, and Mr. Davis stated he had applied for the permit.

The Board suggested that this application be continued to allow the applicant and the City an opportunity to determine the status of the permit.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Stead, Tidwell, White "aye"; no "nays"; no "abstentions") to **CONTINUE** the request for a Special Exception to permit a carport in the required front yard (Section 210.B.10) in the RS-3 district to January 25, 2011; for the following property:

LT 23 BLK 17, MAGIC CIRCLE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Van De Wiele returned to the meeting at 3:10 P.M.

Case No. 21201-Lamar Outdoor Advertising

Action Requested:

Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10). **Location:** SE of the intersection of I-244 and I-44

Presentation:

Lorinda Elizando, 7777 East 38th Street, Tulsa, OK; no presentation was made.

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, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **ACCEPT** the Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10), subject to the action of the Board being void should another advertising sign facing the same traveled way be constructed prior to this sign; for the following property:

BEG 65N SECR LT 3 TH N55 TO SL HWY R/W TH WLY 400.66 NW293.95 SWLY CRV LF 96.31 SE144 E728 POB & BEG SWC GOV LT 2 TH N120 TO S R/W LN HWYS 44 & 244 TH E55 S120 W55 POB LESS S40 FOR RD SEC 4 19 14, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No. 21202-Lamar Outdoor Advertising

Action Requested:

Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10). **Location:** 11525 East Skelly Drive

Presentation:

Lorinda Elizando, 7777 East 38th Street, Tulsa, OK; no presentation was made.

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, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **ACCEPT** the Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10), subject to the action of the Board being void should another advertising sign facing the same traveled way be constructed prior to this sign; for the following property:

PRT LT 1 BEG MOST ELY COR LT 1 TH SW435 W14.35 SW22.83 NW194.38 NE28.38 N34.42 NE252.21 E182.50 SE130 POB BLK 1, CROSSROADS MALL ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No. 21203-Lamar Outdoor Advertising

Action Requested:

Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10). **Location:** 12200 East I-244

Presentation:

Lorinda Elizando, 7777 East 38th Street, Tulsa, OK; no presentation was made.

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, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **ACCEPT** the Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 ft. from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10), subject to the action of the Board being void should another advertising sign facing the same traveled way be constructed prior to this sign; for the following property:

PRT W/2 SE LYING S OF HWY R/W BEG SWC SE TH N920 SE460.64 S449.82 SE181.02 TH CRV RT233.79 SE68.64 E150 SE211.2 E203.50 TH N TO S LN HWY TH W ALG R/W TO W LN W/2 SE TH S TO POB SEC 32 20 14, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No.21204-George Proctor

Action Requested:

Variance of the front yard requirement in an RM-1 district to permit a replacement guard shack (Section 403). **Location:** 2202 South Phoenix Avenue West

Presentation:

George Proctor, 16890 Country Drive, Claremore, OK; stated he represents the general contractor who has been hired to raze the existing guard shack and erect a new guard shack in its place. He stated that there is no other practical place for the replacement shack.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

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 front yard requirement in an RM-1 district to permit a replacement guard shack (Section 403). The Board has found that the existing 32 sq. ft. guard shack is not only old and outdated but is of insufficient space to act as an entry that a security point should. The existing shack shall be demolished and the new guard shack shall be built not to exceed the maximum dimensions of 8'-0" x 10'-0" and shall be located approximately as indicated on conceptual site plan 21.5, and as shown on the plan shall be set back at least 35'-0" from the centerline of Phoenix Avenue. In granting this Variance the Board finds 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, subject to conceptual plan 21.5; for the following property:

**BLK 6, RIVERVIEW PARK ADDN RESUB, CITY OF TULSA, TULSA COUNTY,
STATE OF OKLAHOMA**

Case No. 21205-Doug Walker

Action Requested:

Variance of the maximum building height of 1-story to 2-story in an OL district (Section 603); and a Special Exception to increase the maximum floor area ratio permitted in the OL district from .30 to .40 (Section 603) to permit an office building.

Location: 4809 East 89th Street

Presentation:

Doug Walker, 5521 East 87th Street, Tulsa, OK; stated he is the architect and represents the owner of the property. The building is currently a one-story style office building and has a pitched shingle roof. The attic space under the pitched roof is currently unfinished. The variance will allow the attic space to be finished and become an additional office space; the finished attic space will not change the exterior appearance or the overall size of the building envelope or the height of the building. The finished attic space would increase the floor area ratio to 40%; the office space would increase from 5,000 sq. ft. to 7,000 sq. ft. which would require 23 parking spaces. Currently the office has 24 parking spaces plus one handicapped space which is required, and this has been reviewed by the City of Tulsa.

Interested Parties:

Sue Marshall, 8830 South Yale Avenue, Tulsa, OK; stated she and her husband have a family dental practice that shares the parking lot with the subject property, and their concerns are not enough parking if the attic space of the subject building is allowed to become an office. Their plans are to add another dentist with additional staff, thus occupying more of the existing parking spaces. The employee and handicapped entrance to the dental office is on the south side and the patient entrance is located on the east side, so the staff uses the south parking lot.

Ms. Stead did not understand why Ms. Marshall was concerned about parking spaces because the dental practice would park on their side of the lot and the subject property would utilize their side of the lot. Ms. Marshall stated the property is a condo type property and there has been no designation on the parking from the very beginning, so the entire parking lot is used by everyone. Also, the Yale widening project changed the parking lot size because of an eight to nine foot drop caused by the widening project.

Kevin Creedon, 8804 South Lakewood Avenue, Tulsa, OK; stated he is the occupant of the subject property and his business is an oil and gas business. Eventually his plans are to have an architect and maybe a real estate office housed in the subject building.

Mr. Van De Wiele asked Mr. Creedon if he foresees occupying all 24 parking spaces and Mr. Creedon stated that he thinks the business would only occupy 25% to 30% of the designated spaces.

Comments and Questions:

None.

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 maximum building height of 1-story to 2-story in an OL district (Section 603); and a Special Exception to increase the maximum floor area ratio permitted in the OL district from .30 to .40 (Section 603) to permit an office building. The Board has found that the proposed residential style office building with a pitched shingle roof and a first floor plate at 10'-0" will be compatible with the architectural style of the neighborhood, and since the subject property appears to be at a slightly lower elevation, estimated about four feet, than the residential district to the west the Board believes this will not adversely affect the area. There are other properties nearby that contain two-story buildings; this is approximately 65'-0" from the residential district to the west and there will be a required lot combination on Lots 1 and 2, Block 1, Leadership Office Park. According to the code screening fence will be required between the R district on the west side although it is substantially set back. Any lighting shall be shielded and away from the residential district. In granting the Special Exception the Board finds 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. In granting the Variance the Board finds 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, subject to conceptual plan 22.8; for the following property:

LT 1 and LT 2 BLK 1, LEADERSHIP OFFICE PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No.21206-Spectrum Homes, LLC

Action Requested:

Minor Special Exception to reduce the required front yard from 35 ft. to 33.5 ft. (Section 403). **Location:** 4416 South Atlanta Place

Presentation:

Joel O'Brien, Spectrum Homes, P. O. Box 35562, Tulsa, OK; no presentation was made.

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, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Minor Special Exception to reduce the required front yard from 35 ft. to 33.5 ft. (Section 403), 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, subject to conceptual plan 23.6; for the following property:

LT 2, BLK 1, VANMAR SUB TR 9 BARROWS ORCHARD ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No.13914-A-Sportstech Properties

Action Requested:

Amendment to a condition of a previous approval to expand the list of permitted uses of an indoor recreational facility in an IL district from 'soccer only'. **Location:** 10909 East 56th Street

Presentation:

Dan McIntosh, 10909 East 56th Street, Tulsa, OK; stated he will be training athletes and it will not be a health club.

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, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Amendment to a condition of a previous approval to expand the list of permitted uses of an indoor recreational facility in an IL district from 'soccer only' to be an athletic training facility, expanding it to gymnasium, physical fitness, and athletic training activities; 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 6 BLK 1, CARTER INDUSTRIAL PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No. 18607-A-Keith Robertson

Action Requested:

Amendment to a previously approved site plan for a church use in the RS-3 district to permit site and building expansions. **Location:** 8707 East 51st Street

Presentation:

Keith Robertson, Architect, 5567 South Lewis, Tulsa, OK; stated he represents the client, The Regency Park Church of the Nazarene. The original site plan was given an approval in 1999, Case No. 18607. The expansion is proposed for the north side of the building, the vestibule on the east and west side, and the extension of the sanctuary. The client would also like to modify the parking by removing three houses and making that area parking; one house has been removed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Mr. White left the room at 3:58 P.M. and returned at 4:03 P.M.

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 Amendment to a previously approved site plan for a church use in the RS-3 district to permit site and building expansions. The Board has found that these amendments are compatible with the original approval on June 13, 1995, Case No. 17508 and on December 14, 1999, Case No. 18607. The applicant is aware that the property extension to the southwest is required to remain out of the 35'-0" front yard abutting East 51st Street. Lighting shall be shielded down and away from any surrounding R districts. This approval is made per plan 25.6. This approval does not relieve the applicant from any code requirements; for the following property:

**LT 15 – 19, BK 1, REGENCY PARK WEST, CITY OF TULSA, TULSA COUNTY,
STATE OF OKLAHOMA**

Case No. 21207-TCC/Tulsa Fire Department

Action Requested:

Special Exception to permit a fire safety training center (Use Unit 5) in an RS-3 district (Section 401). **Location:** North and East of the NE/c of North New Haven Avenue and East Apache Street

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated this proposed facility will train firemen from a large area, i.e., Arkansas, Missouri, Kansas, and the entire state of Oklahoma. The parking spaces for the subject building will comply with the code.

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, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to permit a fire safety training center (Use Unit 5) in an RS-3 district (Section 401), subject to conceptual plan 26.7; 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:

The East Half (E/2) of the Southeast Quarter (SE/4) of the Southwest Quarter (SW/4), and the West Half (W/2) of the Southwest Quarter (SW/4) of the Southeast Quarter (SE/4) all in Section 21, Township 20 North, Range 13 East, LESS AND EXCEPT: 1. The South 350 feet of the West Half (W/2) of the Southeast Quarter (SE/4) of the Southeast Quarter (SE/4) of the Southwest Quarter (SW/4); 2. The North 25 feet of the Northwest Quarter (NW/4) of the Northeast Quarter (NE/4) of the Southeast Quarter (SE/4) of the Southwest Quarter (SW/4); 3. Dedicated Right-of-Way for East Apache Street North; and 4. Dedicated Right-of-Way of North New Haven Avenue East, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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OTHER BUSINESS

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NEW BUSINESS:

None.

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BOARD MEMBER COMMENTS:

None.

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There being no further business, the meeting adjourned at 4:12 p.m.

Date approved: 2/8/11


Chair