

**CITY BOARD OF ADJUSTMENT**  
**MINUTES of Meeting No. 1040**  
Tuesday, January 25, 2011, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2<sup>nd</sup> Street

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
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 20, 2011, at 2:07 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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Mr. Cuthbertson read the rules and procedures for the Board of Adjustment Public Hearing.

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**MINUTES**

Minutes were not approved. Approval of the January 11, 2011 (No. 1039) minutes will be carried to the next meeting on February 8, 2011.

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**NEW APPLICATIONS**

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**Case No. 19775-A-Lou Reynolds**

**Action Requested:**

Special Exception to change a nonconforming use of a building (as to parking) to increase the amount of restaurant floor area previously permitted (Section 1402.F).

**Location:** 1338 East 15<sup>th</sup> Street South

**Presentation:**

No presentation made; applicant has asked for a continuance to allow additional relief that is necessary in order to permit the expanded restaurant 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, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **CONTINUE** to February 8, 2011 the request for a Special Exception to change a nonconforming use of a building (as to parking) to increase the amount of restaurant floor area previously permitted (Section 1402.F; for the following property:

**Lots Three (3), Fourteen (14), Fifteen (15) and Sixteen (16), Block Seven (7), ORCUTT ADDITION, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof, together with the East Half (E/2) of vacated South Quaker Avenue adjacent to Lots Fourteen (14), Fifteen (15) and Sixteen (16) and all of the vacated alley between Lots Three (3) and Fourteen (14) and the West Half (W/2) of the vacated alley adjacent to Lots Fifteen (15) and Sixteen (16), CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21210-Phil Hernandez**

**Action Requested:**

Verification of the spacing requirement for an Adult Entertainment Establishment (Use Unit 12a - bar use) of 300 ft from a park, school, church and another Adult Entertainment Establishment and 50 ft. from an R district (Section 1212a..C.3.).

**Location:** 3500 South Sheridan Road

**Presentation:**

No presentation made. The applicant needs a Special Exception to permit the bar.

**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 **CONTINUE** to February 8, 2011 the request for a Verification of the spacing requirement for an Adult Entertainment Establishment (Use Unit 12a - bar use) of 300 ft from a park, school, church and another Adult Entertainment Establishment and 50 ft. from an R district (Section 1212a..C.3.); for the following property:

**LT 1 BK 2, WILMOT ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**UNFINISHED BUSINESS**

\* \* \* \* \*

**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 11<sup>th</sup> Street South

**Presentation:**

**Tally Alame**, 4821 East 11<sup>th</sup> Street, Tulsa, OK; Mr. Alame submitted a letter for parking arrangements as requested by the Board at the previous meeting.

**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 Variance of the required parking to 17 spaces to permit an addition to an existing health club and smoothie bar (Section 1219.D). With the submittal of the letter from the Radar Group Property Management stipulating that Tally's Java N Juice may use the parking lot to the west of Tally's, this will be on the west side of Tally's Restaurant building and south side of 11<sup>th</sup> Street; the letter is dated January 19, 2011, and per conceptual plan 2.6; 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; 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. 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:**

**Joel Kantor**, 4504 South Louisville Avenue, Tulsa, OK; no presentation was made.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Mr. Alberty stated there are certain code requirements that must be met, due to the fact that this could be less than three feet from the side lot line; it does require a fire rating. Fire safety is the reason for the five-foot side yard, because there is typically permitted a two-foot overhang, so that would maintain three feet of separation between a building and a common property line. Anything inside of the three feet does require special construction. If the applicant is granted his request for a Variance and does receive a permit, he still has to comply with the building code.

**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 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. The Board has found that the lot is not rectangular, that the front is narrower than the back, and there are numerous utility easements directly behind the property which make it difficult to build to the back of the house. Although this property does comply, this property does contain more than 75 feet in lot width and more than 9,000 sq. ft. of lot area; again, it is difficult to place the construction other than where it is shown on conceptual plan 3.6. In granting this variance the Board finds 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; for the following property:

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

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**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 20<sup>th</sup> Street South

**Presentation:**

**Arthur Davis**, 10728 East 20<sup>th</sup> Street, Tulsa, OK; stated he is going to have the existing structure removed and a flat-top aluminum carport installed, and it will be similar in design to other carports in the neighborhood. Mr. Davis indicated that the carport will comply with the code requirements.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

This case has been carried forward from the January 11, 2011 Board of Adjustment meeting. In that meeting there was a City of Tulsa permit presented that was in question. Mr. Boulden stated that he had found out the City had issued the permit in error and rescinded the permit three days later.

**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** the Special Exception to permit a carport in the required front yard (Section 210.B.10) in the RS-3 district, subject to conceptual plan 4.6 and 4.7; 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:

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

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**NEW APPLICATIONS**

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**Case No. 21208-Sean Pendley**

**Action Requested:**

Variance of the rear yard requirement in the RS-3 district from 20 ft. to 8.5 ft. (Section 403) to permit an addition to an existing dwelling. **Location:** 207 East 27<sup>th</sup> Street South

**Presentation:**

**Kay Sheehan**, 207 East 27<sup>th</sup> Street, Tulsa, OK;

**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 in the RS-3 district from 20 ft. to 8.5 ft. (Section 403) to permit an addition to an existing dwelling, per conceptual plan on page 5.7, noting that after the existing garage structure is demolished, the driveway, if and when it is extended to the proposed outdoor covered parking and patio area, must be of concrete or asphalt. In granting the variance the Board finds the lot is fairly shallow for an RS-3 zoned lot containing only 112 to 114 feet of depth, as the lot is legal non conforming with regard to lot area the required livability space is equal to 50% of the lot area. These 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; for the following property:

**LT 12 BLK 14, SUNSET TERRACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21209-Gail Fair**

**Action Requested:**

Variance of the required parking from 59 spaces to the existing 53 spaces to permit the addition of a restaurant use (Sections 1200) in an existing multi-tenant shopping center in the CS district. **Location:** 7101 South Memorial Drive

**Presentation:**

**Gail Fair**, 7060 South Yale Avenue, Suite 900, Tulsa, OK; stated the surrounding businesses will not compete for parking spaces because their hours are varied, ranging from 6:00 A.M. until 11:00 P.M. with various closing times throughout the day. She stated the vacant space would probably be used as a restaurant.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the required parking from 59 spaces to the existing 53 spaces to permit the addition of a restaurant use (Sections 1200) in an existing multi-tenant shopping center in the CS district. The Board has found that the existing shopping center and parking lot are sufficient for the current uses and planned uses; with the varying hours of operation in the shopping center and the traffic flow the reduction of spaces will be sufficient. 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; for the following property:

**LT 1 LESS BEG NWC TH E60 SW70.70 S160 W10 N210 POB FOR ST BLK 1, SKYVIEW ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 20933-A-Wynesha Turner**

**Action Requested:**

Variance of the building setback from an abutting R zoned property from 25 ft. to 7.5 ft. (Section 404.F); and a Variance of the setback for a parking lot in the R district from the centerline of an abutting street from 50 ft. to 30 ft. (Section 1302.B). **Location:** 1811 North Quaker Avenue East

**Presentation:**

**Wynesha Turner**, 1109 East 50<sup>th</sup> Place North, Tulsa, OK; stated she has applied for a lot combination and the plat waiver has been approved. She has also obtained letters and a petition from the residents in the area. If she is granted her variance requests today she will be able to accommodate up to 85 children and up to 14 employees.

Mr. White stated that about a year and a half ago she was before the Board and there was discussion about the south line, where Seminole goes through; and was asked whether there was an easement dedication on the south side. Mr. Center stated that the plat shows there is actually a street on the south side of the subject tract.

**Interested Parties:**

**David Center**, 208 East New Orleans, Broken Arrow, OK; stated he is the architect for the proposed project. The fence along the north property line will need to be extended almost to the street because it is necessary to have separation between a residential lot and a commercial building. A wooden fence that is eight feet tall is being considered, and it is possible that a brick fence would be built if it were not too costly. There will be a fence on the playground areas. Mr. Cuthbertson stated that only the proposed parking area requires a screening fence.

Mr. Henke asked the Board if there was a hardship for the requested variance. Mr. Cuthbertson stated traditionally the Use Unit 5, churches, schools, daycare, etc., are contemplated in the context of a residential neighborhood they are traditionally presented on a much larger lot, central to a neighborhood. This is on residentially platted lots, so it is on a much smaller lot and on a corner, so that may set it apart from traditional Use Unit 5 uses in residential districts.

**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 building setback from an abutting R zoned property from 25 ft. to 7.5 ft. (Section 404.F); and a Variance of the setback for a parking lot in the R district from the centerline of an abutting street from 50 ft. to 30 ft. (Section 1302.B). Traditionally the children's nursery use is generally on lots larger than the subject property. The placement of a nursery in this particular area will be very beneficial to the community. Instead of numerous home daycares the applicant is proposing one that will accommodate up to 85 children and the benefits to the community outweigh other considerations; subject to conceptual plan on page 7.5. As stated in the previous Special Exception, the sidewalk along East Seminole shall be uncovered and maintained. A fence will be constructed and maintained as a screening fence on the north side of the parking 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; for the following property:



**S/2 LT 5 & N/2 LT 6 BLK 7, BULLETTE HGTS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 18442-A-Woodland Acres Baptist Church**

**Action Requested:**

Amendment of a condition of a previous approval to eliminate the requirement for a tie agreement. **Location:** Northeast of the NE/c of East 56<sup>th</sup> Place and South Harvard Avenue

**Mr. Van De Wiele recused himself from this case at 1:51 P.M.**

**Presentation:**

**Barbara Sezati**, 5511 South Harvard Avenue, Tulsa, OK; stated the church owns four duplexes; they were bought with the intention of extending parking as the church expanded. The need for that has gone away due to the Joe Creek renovation. Three of the duplexes are going to be sold, and the church is going to keep one of the duplexes as a mission house for missionaries who come in on rotations.

**Interested Parties:**

There were no interested parties present.

**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 Amendment of a condition of a previous approval to eliminate the requirement for a tie agreement. The church has indicated that only one of the duplexes may possibly be used as a mission house which would be auxilliary to the principal church; for the following property:

**LOT 1, LOT 2, LOT 5, and LOT 6, BLOCK 1, SOUTH HARVARD COURT AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. Van De Wiele came back to the meeting at 1:55 P.M.**

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**Case No. 17066-A-Stephen Gregg**

**Action Requested:**

Special Exception to permit a manufactured home (Use Unit 9) in an RS-3 district (Section 401); and a Special Exception to extend the one year time limit (Section 404.E). **Location:** 2828-2830 North Gilcrease Museum Road

**Presentation:**

**Robert J. Getchell**, 6846 South Canton, Suite 100, Tulsa, OK; stated he is an attorney representing Mr. & Mrs. Stephen Gregg. The subject property is almost 12 acres in size, and the home will be situated north of the residence that is already in place. The manufactured home will be approximately 500 feet from the road and natural vegetation will screen the home from other properties.

**Stephen Gregg**, 9375 North 163<sup>rd</sup> East Avenue, Owasso, OK; stated he is planning to move to the subject property. The new manufactured home will be placed on the existing pad of the previous manufactured home.

**Interested Parties:**

**Ray Owens**, 2325 West 30<sup>th</sup> Street North, Tulsa, OK; stated he has lived in the area for five years and he believes that a manufactured home would be aesthetically inconsistent for the neighborhood.

Ms. Stead asked Mr. Owens if he could see the manufactured home from where he lived and he stated he could but it is because he has a two-story home. He would like the Board to know he would not like the manufactured home to be seen from the subdivision entrance.

Ms. Stead asked Mr. Owens if he would have a problem with the Board granting an extension of more than one year to the Special Exception request, and Mr. Owens stated he did not have a problem with that as long as the manufactured home could not be seen from the subdivision entrance.

**Arvin McGee**, 2302 West 30<sup>th</sup> Street North, Tulsa, OK; stated he had no problem with the manufactured home being placed on the subject property because he does not feel it would be detrimental to the neighborhood.

**O. C. Walker**, 3110 North 24<sup>th</sup> West Avenue, Tulsa, OK; stated he lives beside the subject property and the manufactured home will be placed behind his house.

Ms. Stead asked Mr. Walker if he could see the manufactured home from his house and Mr. Walker stated he could.

Mr. Henke asked Mr. Walker how long he has lived in his home and Mr. Walker stated he has lived in the house approximately two years. Mr. Henke asked if Mr. Walker could see the previous manufactured home and Mr. Walker stated he could.

Ms. Stead asked Mr. Walker what his objection is to the new manufactured home being placed on the subject property. Mr. Walker stated he bought his home in a single-family residential area and he would like for the entire area to remain as such.

Ms. Stead asked what the distance is between Mr. Walker's home and the proposed manufactured home. Staff stated the distance is 567 feet.

**Rebuttal:**

**Robert Getchell** stated his client, Mr. Gregg, has offered to plant a screening line 50 or 60 feet away from the manufactured home; i.e., evergreen trees.

**Comments and Questions:**

Mr. Alberty stated that if the Board is going to require screening the Board needs to be more specific, because it is hard to enforce what is adequate. Mr. Alberty suggested the Board specify pines or evergreen type planting material. Perhaps the length of the manufactured home will determine the quantity; i.e., if the trees are set on ten-foot centers, there would probably be eight evergreen plantings.

**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 manufactured home (Use Unit 9) in an RS-3 district (Section 401); and a Special Exception to extend the one year time limit (Section 404.E) with the time limit to be continued to ten years and the condition of the approval to establish a line of ten evergreens on ten-foot spacing to the east of the proposed manufactured home with the ultimate effect of screening the view of the manufactured home from the subdivision to the east. The manufactured home will be located on the existing pad as shown on page 11.5 and the manufactured home is to be new, and will be in compliance with the conditions of the original Special Exception. The manufactured home will be tied down and skirted; 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 774.4 ft. of the S/2 of the NE/4 of the SE/4 of Section 21, T-20-N, R-12-E, of the IBM, City of Tulsa, Osage County, State of Oklahoma**

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**Case No. 21211-Andrew Shank**

**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:** North of the NE/c of East 91<sup>st</sup> Street and Hwy. 169

**Presentation:**

**Andrew Shank**, 2727 East 21<sup>st</sup> 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), based on the matters as the presently exist, subject to the action of the Board being void should another digital outdoor advertising sign facing the same traveled way be constructed prior to this sign; for the following property:

**A TRACT OF LAND THAT IS PART OF THE SOUTH HALF OF THE SOUTHEAST QUARTER (SE/4) OF SECTION EIGHTEEN (18), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS:**

**COMMENCING AT THE SOUTHEAST CORNER OF SAID SE/4; THENCE S 88°58'03" W ALONG THE SOUTH LINE OF SECTION 18, FOR 1322.83 FEET; THENCE N 01°01'57" W FOR 60.00 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE S 88°58'03" W FOR 392.16 FEET TO A POINT ON THE EXISTING MINGO VALLEY EXPRESSWAY RIGHT-OF-WAY; THENCE N 78°46'03" W ALONG SAID RIGHT-OF-WAY, FOR 70.62 FEET; THENCE S 88°58'03" W ALONG SAID RIGHT-OF-WAY, FOR 350.00 FEET; THENCE N 83°48'43" W ALONG SAID RIGHT-OF-WAY, FOR 204.22 FEET TO A POINT ON NEW U.S. HIGHWAY NO. 169 RIGHT-OF-WAY AS AQUIRED BY CONDEMNATION BY OKLAHOMA TURNPIKE AUTHORITY, CASE NO. CJ 98-05826, ORDER FOR CONFIRMATION OF REPORT OF COMMISSIONERS FILED APRIL 22, 1999; THENCE N 01°01'57" W ALONG SAID NEW U.S. HIGHWAY NO. 169 RIGHT-OF-WAY, FOR 475.46 FEET; THENCE N 06°57'38" E ALONG SAID NEW U.S. HIGHWAY NO. 169 RIGHT-OF-WAY FOR 732.32 FEET; THENCE N 89°58'35" W ALONG SAID NEW U.S. HIGHWAY NO. 169 RIGHT-OF-WAY, FOR 14.89 FEET; THENCE N 06°16'25" E ALONG SAID NEW U.S. HIGHWAY NO. 169 RIGHT-OF-WAY, FOR 18.44 FEET, TO A POINT ALONG SAID NEW U.S. HIGHWAY NO. 169 RIGHT-OF-WAY AS AQUIRED BY CONDEMNATION BY OKLAHOMA TURNPIKE AUTHORITY, CASE NO. CJ 98-5736, ORDER FOR CONFIRMATION OF REPORT OF COMMISSIONERS FILED JUNE 14, 2005; THENCE N 89°03'03" E ALONG SAID NEW U.S. HIGHWAY NO. 169 RIGHT-OF-WAY, FOR 2.99 FEET; THENCE N 07°01'11" E ALONG SAID NEW U.S. HIGHWAY NO. 169 RIGHT-OF-WAY, FOR 286.42 FEET; THENCE N 05°05'34" W ALONG SAID NEW U.S. HIGHWAY NO. 169 RIGHT-OF-WAY, FOR 220.08 FEET;**

THENCE N 01°51'52" E ALONG SAID NEW U.S. HIGHWAY NO. 169 RIGHT-OF-WAY, FOR 315.18 FEET; THENCE N 89°01'16" E FOR 2144.76 FEET; THENCE S 01°16'35" E FOR 2011.05 FEET; THENCE S 88°58'03" W FOR 8.00 FEET; THENCE S 01°16'31" E FOR 36.75 FEET; THENCE S 43°50'46" W FOR 39.51 FEET; THENCE S 88°58'03" W FOR 1236.57 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND, CONTAINING 105.37 ACRES OF LAND MORE OR LESS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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### **Case No. 21212-Tulsa Engineering and Planning**

#### **Action Requested:**

Variance of the required setbacks for a building in the IM district from two abutting streets (Section 903); a Variance of the parking requirement for a restaurant from 36 spaces (Section 1212.D); and a Variance of the landscape requirements (Section 1002); all to permit the reconstruction of a restaurant on the IM-zoned property. **Location:** 3301 West 5th Street

#### **Presentation:**

**Tim Terral**, 6737 South 85<sup>th</sup> East Avenue, Tulsa, OK; stated he represents the owners of the Knotty Pine Restaurant. Last May there was a fire at the original Knotty Pine Restaurant and subsequently the original restaurant was torn down. The owners want to rebuild the restaurant in the same location as it was before the fire, but the building must meet today's coding requirements. The lot is a legal nonconforming lot. It is very narrow and shallow from east to west and the current setback is 50 feet off 33<sup>rd</sup> West Avenue. The current parking lot contains 24 spaces with available on-street parking.

#### **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 required setbacks for a building in the IM district from two abutting streets (Section 903); a Variance of the parking requirement for a restaurant from 36 spaces (Section 1212.D); and a Variance of the landscape requirements (Section 1002); all to permit the reconstruction of a restaurant on the IM-zoned property. The Board has found that the viable restaurant on this property was destroyed by fire and is being rebuilt, that it was nonconforming, the property is shallow and oriented to 33<sup>rd</sup> West Avenue. The 50-foot setback requirement will leave no buildable area at the west end of the parcel. This property is in an older section platted many years ago, and many buildings are built close to the street, and buildings along 5<sup>th</sup> Street to the west are also built very close to the street. There are 24 striped parking spaces shown; however, the parking

requirement for the square footage of the building would require 36 spaces; the Board cannot count or consider on-street or other parking which may be available, and have always seemed to accommodate the patrons of this business. The Board makes this approval subject to conceptual plan on page 13.7. In granting this Variance the Board has found by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the Variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**BEG 50W & 313.38S NEC LT 5 TH N176.3 W100 S TO PROP LINE ON NL 5TH ST  
E70 POB SEC 4 19 12, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21213-Ginger and Allen**

**Action Requested:**

Special Exception to permit a manufactured home in the RS-3 district (401); and a Special Exception to extend the one year time limit (Section 404.E). **Location:** 3634 South 29<sup>th</sup> Avenue West

**Presentation:**

**Ginger and William Chadic**, 1920 South Phoenix Avenue, Tulsa, OK; Ms. Chadic presented two pictures of manufactured homes in the neighborhood; one is located at 3604 South 29<sup>th</sup> West Avenue which is two houses down from the subject property and the other is located on 27<sup>th</sup> West Avenue which is approximately one block away.

**Interested Parties:**

**Lesa Ryan**, 3652 South 28<sup>th</sup> West Avenue, Tulsa, OK; stated she is one street away from the subject property and does not think that a manufactured home would fit into an area that has traditionally built homes, and that it would have a negative impact on the area.

**Steve Bailey**, 4424 East 105<sup>th</sup> Place, Tulsa, OK; stated a manufactured home would devalue the value of the traditional housing in the neighborhood, and if the properties are devalued it would take away revenue from the city.

**Comments and Questions:**

Ms. Stead stated that it is not the Board's habit to approve a mobile home in a neighborhood containing predominantly stick homes.

**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

manufactured home in the RS-3 district (401); and a Special Exception to extend the one year time limit (Section 404.E); for the following property:

**N 1/2 LT 1 BLK 10, RED FORK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

\*\*\*\*\*.

**Case No. 21214-Lamar Central Outdoor, LLC**

**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:** On the west side of 7616 South Garnett Road

**Presentation:**

**Lorinda Elizando**, 7777 East 38<sup>th</sup> 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), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign; for the following property:

**LT 1 LESS BEG 354.85 E SWC LT 1 TH E29.13 NW100.98 S96.46 POB BLK 1, UNION SCHOOL ADDN, 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 2:53 p.m.

Date approved: \_\_\_\_\_

2/22/11



Chair