

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1045
Tuesday, April 12, 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 Van De Wiele White, Vice Chair		Alberty Cuthbertson Sparger	Boulden, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, April 7, 2011, at 10:10 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

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 the March 22, 2011 Board of Adjustment meeting (No. 1044).

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UNFINISHED BUSINESS

*****.

21235-Mark S. Rooney

Action Requested:

Variance of the required front yard in the RS-1 district from 35 ft. (Section 403) to permit an addition to an existing dwelling. **Location:** 3144 East 33rd Street

Presentation:

Scott Butters, 3027 West 68th Place, Tulsa, OK; stated the hardship for the variance is how the house is situated on the land.

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 front yard in the RS-1 district from 35 ft. (Section 403) to permit an addition to an existing dwelling. This neighborhood was developed largely in the 1950s, well before the current code of 1970. It may be that the RS-1 designation was established over a portion of the neighborhood more to preserve the lot size than to establish streetscape. The lot contains over 20,000 square feet but is a corner lot and East 33rd Street specifies a 60'-0" wide right-of-way or an additional ten feet over what is normal for this residential area. The literal interpretation of the code would subject the addition to the 35 feet front yard requirement even though the existing home extends up to 25 feet on the north side; per conceptual plan on page 2.6. In granting this variance the Board has found that by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure, streets and 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 6 BLK 6, RANCH ACRES RESUB L5-12 B5 & L4-6 B6, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No. 21239-Bill McCullough

Action Requested:

Special Exception to permit a duplex dwelling (Use Unit 7) in an RS-3 district (Section 401); and a Variance of the minimum required lot area for a duplex

dwelling in the RS-3 district (Section 404.C.1) from 9,000 square feet to 7,000 square feet. **Location:** 1648 South Indianapolis Avenue

Mr. Henke recused himself at 1:10 P.M.

Presentation:

Joe McGraw, 10900 South Louisville, Tulsa, OK; stated he is the owner of the subject property and wants to build a two bedroom, two bath duplex on the property.

Interested Parties:

Barbara Nottingham, 1634 South Indianapolis Avenue, Tulsa, OK; stated the 7,000 square feet variance request, if granted, creates a problem because it would set a precedent, thus allowing builders to come into the neighborhood to build duplexes on smaller lots. Ms. Nottingham also stated that by increasing the total number of rental properties in the neighborhood, the market value on all properties would decrease regardless of how nice or expensive the rental properties are.

Brenda Weaver, 1607 South Indianapolis, Tulsa, OK; stated the neighborhood would like to have a new single-family dwelling come into the area, but there have been burglaries and it was determined that they were the result of transient people living in duplexes. That is the problem the neighborhood sees with a multi-family dwelling.

Rebuttal:

Mr. McGraw stated that he feels strongly that he would be improving the neighborhood with the proposed duplex. The proposed duplex is across the street from a school and next door to a rundown commercial property. The duplex will be a large one-story with an all brick exterior having stone corners possibly, and a vaulted ceiling on the inside. A one car garage and one car carport is also proposed if it all can be fitted on the land.

Mr. Van De Wiele asked Mr. McGraw what he thought the hardship was for the 9,000 square feet to 7,000 square feet variance. Mr. McGraw stated there are 29 duplexes in the area and the area is not well maintained.

Mr. Boulden asked if the plan or schematic he has in front of him shows platted building lines, or if the lines represent something else.

Bill McCullough, 6923 East 111th Street South, Bixby, OK; stated the proposed plan is showing platted building lines, which shows the lot to be maximized with a nice structure. Two separate entrances to the unit are proposed to give the house a single-family look.

Comments and Questions:

Mr; Cuthbertson advised that it will be necessary to send out new notices to the surrounding area.

Board Action:

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to permit a duplex dwelling (Use Unit 7) in an RS-3 district (Section 401); and **APPROVE** a Variance of the minimum required lot area for a duplex dwelling in the RS-3 district (Section 404.C.1) from 9,000 square feet to 7,000 square feet, with the condition that a detailed site plan be furnished to the Board of Adjustment for Board approval. All driving and parking surfaces are to be concrete or asphalt. The subject property only contains 50 feet of lot width while the predominant lot width in this RS-3 district is 62.5 feet; the depths are constant at 140 feet. Many of the corner lots, such as this one, only contain 50 feet and the 17th Street right-of-way abutting the subject property to the south contains an extraordinary width of 80 feet as it is a feeder street into the nearby Tulsa County Fairgrounds to the east. This constitutes an undue hardship for building on this lot. The minimum livability space shall be maintained at 5,000 square feet or more. All other criteria of the code are to be followed; these are to be two-bedroom, two-bath one-story units and the Board requests that the site plan clearly delineate the garages and entrances so as to present a single-family look. In granting the 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 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 finds the special exception will be in harmony with the spirit and intent of the Code, and the Comprehensive Plan, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 11 BLK 8, SUNRISE TERRACE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Henke re-entered the meeting at 1:42 P.M.

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Case No. 21240-Jeremy Perkins

Action Requested:

Variance of the rear yard requirement in the RS-1 district (Section 403) from 25 feet to permit a garage addition to an existing dwelling. **Location:** 4624 South Wheeling Avenue

Presentation:

Jeremy Perkins, 2200 South Utica Place, Tulsa, OK; stated he is the architect for the proposed project and is representing the homeowner. The proposal is to add an 18'-9" wide by 26'-0" deep third-car garage onto the existing residence, and it will match the roof line of the existing home. The upstairs in the proposed garage will be unfinished and used like an attic, though it could be finished. The attic will be 234 square feet, and the first floor will be 468 square feet for a total of about 700 square feet. The existing accessory building will be razed.

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-1 district (Section 403) from 25 feet to permit a garage addition to an existing dwelling, subject to conceptual plans 4.6 and 4.7. The powder room shown on page 4.7 is on the lower floor, whereas the storage area is on the upper floor, and the upper floor will contain 234 square feet. No commercial activity will be allowed in any of the additional space. The applicant will demolish the existing accessory building in order to build this garage. There will be no other detached buildings constructed on the property under this approval. The property will remain subject to the RS-1 district's livability space requirements of 7,000 square feet. The orientation of the existing house on this corner lot presents challenges in adding anything. The Board finds these to be extraordinary and exceptional circumstances peculiar to this lot, structure and 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 BLK 2, BOLEWOOD ESTATES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

Case No. 21243-Hilerey Polliard

Action Requested:

Verification of the spacing requirement for a Family Day Care Home of 300' from another Family Day Care Home (Section 402.B.5.g.). **Location:** 8214 East 32nd Place South

Presentation:

Hilerey Polliard, 8214 East 32nd Place, Tulsa, OK; stated she is the home owner and has not found anyone who has another day care within the 300 feet radius.

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") based upon the facts of this matter, as they presently exist, to **ACCEPT** the Verification of the spacing requirement for a Family Day Care Home of 300' from another Family Day Care Home (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 family day care home; for the following property:

LT 18 BLK 8, LONGVIEW ACRES 2ND, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21245-Joshua Walker

Action Requested:

Variance of the parking requirement for a multi-tenant property from 59 parking spaces (Section 1200) to permit a restaurant use; a Special Exception to permit required parking on a lot other than the one containing the principal use (Section 1301.D) to permit the required parking on the adjacent lot to the north; a Variance of the setback requirement for a parking area within 50 ft. of an R district of 50 ft. from the centerline of an abutting street (Section 1302.B); and a Variance of the

landscape requirements for a parking area (Section 1002). **Location:** NW/c of East 15th Street and South St. Louis Avenue

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated the purpose of the application is to establish a principal use parking lot on CS-zoned lots to the north on the subject property, and to permit a mixed use commercial building on the CH-zoned lots to the south. For zoning purposes the subject property is referred to as two lots; however, they are made up of a 50-foot lot and three 25-foot lots, and one of the 25-foot lots is split and divided in half between zoning. Because the lots are zoned differently CH and CS, they cannot be combined and the applicant, as a condition to approval, is willing to submit the property to the tie agreement process. The CH lots to the south and the CS lots to the north are legal non-conforming lots, and between the two contain 19 parking spaces, all of which are located on the CS property, and many of the spaces would not comply with today's code. The applicant has submitted an amended site plan, and this site plan would change two things shown in the Board's agenda packet. There is a slight reduction in the green space to the north, from five feet to four feet for cutouts for trees and this would increase the drive aisle, from 24 feet to 25 feet; and increase the parking space size to accommodate today's vehicles. There will be streetscaping and a few tables and chairs, which will be located in the public right-of-way; the applicant can obtain a license agreement from the City of Tulsa for these. The applicant believes this request will increase the compatibility between the parking area and the residential areas to the north by streetscaping and pedestrian walkability in this project. The hardship for this case is that the buildings were built and the lots were platted in the 1920s and 1930s and consistent with the commercial uses and standards of that time. The buildings on the south lot run from lot line to lot line, and the buildings on the north lot were built without regard to the modern parking environment. All of this prevents a modern usable parking area. The buildings to the north will be removed to create a modern landscaped parking area with streetscaping. All of this is consistent with the Cherry Street district special plan.

Interested Parties:

Debra Worthington, 1423 South St. Louis, Tulsa, OK; stated she opposes the proposed project because it will increase the traffic and more noise in the area.

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 parking requirement for a multi-tenant property from 59 parking spaces (Section 1200) to permit a restaurant use; a Special Exception to permit required parking on a lot other than the one containing the principal use (Section 1301.D) to permit the required parking on the adjacent lot to the north; a Variance of the setback requirement for a parking area within 50 ft. of an R district of 50 ft. from the centerline of an abutting street

(Section 1302.B); and a Variance of the landscape requirements for a parking area (Section 1002). This will be per amended site plan submitted today as shown on new page 6.19, dated April 12, 2011. The Board has found that the lot in question was constructed and platted prior to the current zoning code, and is built basically lot line to lot line but for the variances to be granted today and the special exception would have no adequate parking for the lot in question. The Board finds that the applicant's proposal is adding approximately 14 spaces to the subject lots. 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 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. In granting the special exception the Board finds that 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, and this will be subject to the applicant submitting a recorded license agreement from the City of Tulsa for landscaping in the right-of-way and a tie agreement for the two lots in question. The applicant will maintain the sidewalks on 15th Street and South St. Louis Avenue; for the following property:

**ALL LT 12 & S10 LT 28 BLK 11, LTS 26 27 N15 OF LT 28 BLK 11, FOREST PARK
ADDN RE-AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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Case No. 21246-John Moody

Action Requested:

Special Exception to permit used car sales (Use Unit 17) in a CS district (Section 701); and a Variance to permit open air storage and display of merchandise offered for sale within 300 ft. of an adjoining R district (Section 1217.C.2).

Location: 1624 South Memorial Drive East

Presentation:

John Moody, 6004 South Marion Avenue, Tulsa, OK; stated this particular piece of property has been previously approved by the Board for Use Unit 17 as a self-serve car wash. If the request is approved the car wash will be razed and the property will be developed into two separate structures for two separate uses. The northern structure will be used for retail commercial. The southern portion of the property will be used for the automobile sales office. There have been 45 parking spaces designated on the site plan for the display of the automobiles. There are a number of Use Unit 17 uses that have been approved by the Board and exist on the South Memorial; twenty Use Unit 17 uses, either automobile repairs or used car sales from 11th Street to 21st Street on South Memorial. The request for used automobile sales is compatible and in harmony with the neighborhood. The variance request is because the automobiles being displayed will

be within 300 feet from the adjacent R district to the north. To the north is an existing apartment complex and to the south is a church; the immediate property to the west is CS and is used for a child care development center, and to the west is an office use which is used by Tri-Star Communications. The hardship would be the shape and configuration of the property; it is 130 feet in depth and with 300 feet of frontage on South Memorial. There will be no repairs of automobiles except for the necessary repairs to make the cars ready for sale. The applicant will take care of the existing sidewalks.

Mr. White asked Mr. Moody about the separate entrance on Memorial and Mr. Moody stated there would be a separate entrance for the CS commercial so there can be a distinction from the used car sales.

Mr. Boulden asked Mr. Moody if the used car sales were going to be contained to the southern portion of the lot and Mr. Moody confirmed that it was. Mr. Boulden then asked why the request was for the use on the whole lot, and Mr. Moody stated the first site plan had one building and it was not segregated, because the applicant wanted to make the shopping more presentable and easier to lease he had the building separated.

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 used car sales (Use Unit 17) in a CS district (Section 701); and **APPROVE** a Variance to permit open air storage and display of merchandise offered for sale within 300 ft. of an adjoining R district (Section 1217.C.2). This is in accordance with conceptual plan on page 7.9, and as stated, this approval is for anywhere from 42 to 45 spaces allocated to automobiles for sale. The applicant shall construct and maintain a sidewalk along Memorial Drive to the extent of the property. There shall be no outside storage of automobile parts, tires or batteries. Approval is for auto sales only under Use Unit 17 within the area as shown on the site plan for automobile sales. No auto repairs are permitted except for very minor repairs to prepare an auto for sale. All parking and driving surfaces shall be asphalt or concrete. Privacy fences are to be constructed and maintained on the west and north boundaries. Subject to other city ordinances as to lighting and landscaping. No non-operable automobiles shall be stored on any portion of this lot. 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 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 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:

E/2 SE SE NE SE & E25 W/2 SE SE NE SE LESS E60 & LESS S30 THEREOF FOR STS SEC 11 19 13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No. 21105-A-DeShazo Group

Action Requested:

Special Exception to modify the screening wall/ fence requirement abutting the IL, RS-3, and RMH districts (Section 1228.E.3); and an Amendment to a previously approved site plan for a salvage yard in the IM district. **Location:** 1130 North Lewis Avenue

Presentation:

Bill Painter, 1130 North Lewis, Tulsa, OK; stated he has installed an opaque vinyl wind screen to see what it would look like, and it is better than a chain link fence that will allow the grass, weeds, and trees to grow up in the fencing.

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 modify the screening wall/ fence requirement abutting the IL, RS-3, and RMH districts (Section 1228.E.3); and an Amendment to a previously approved site plan for a salvage yard in the IM district. As for the special exception for modifying the screen wall/fence requirement, the installation of an opaque vinyl wind screen, which is 90% opaque or greater, in the places where there is chain link fence, in the areas where there is brush for natural screening, brush can suffice for the screening but should it vanish, for whatever reason, the opaque fence for the screening would be installed. For the amendment on the previously-approved site plan, since the access gate was actually constructed at a site other than that for which it was approved, the motion would accept the existing site as built to comply with the requirements. 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:

BEG NWC SW SE NE TH S647.83 SE80.1 E465.90 N8 CRV LF355.94 NE88 CRV
RT371.45 N60 CRV LF409.14 SW35.5 W741.93 N466.32 W142.80 POB SEC 31 20
13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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Case No. 21247-Maxwell Asare

Action Requested:

Special Exception to permit automotive sales (Use Unit 17) in the CS district (Section 701); and a Variance to permit open air storage and display of merchandise offered for sale within 300 ft. of an adjoining R district (Section 1217.C.2). **Location:** 502 East 36th Street North

Presentation:

John Hartley, 201 West 5th Street, Suite #501, Tulsa, OK; stated he represents the applicant. The subject property is situated on 36th Street North, which is under redevelopment for a commercial area. The proposed use is for a pre-owned automobile sales lot. The subject property was originally constructed as a gas service station, then used as a paint and body shop and it is presently vacant. There is a 1,500 square feet building which is proposed to be refaced and improved to utilize as a sales office for the used car dealership. There are no similar properties in this area with these conditions. There are RS districts that are within 300 feet. There is one to the south and one to the north and west which is accessed by a service road adjacent to 36th Street North; there is a strip shopping center immediately to the east and north of the subject tract. The applicant is proposing to locate 30 to 40 vehicles on the property for sale in addition to the eight customer parking spaces shown on the proposed layout, which would be located west of the office facility. The applicant is also proposing an eight foot chain link fence with screening, or a solid fencing, on the east, south, and west sides of the subject property. The fencing to the south will extend beyond the pavement area approximately 20 feet.

Ms. Stead asked if there would also be light trucks for sale on the property, and Mr. Hartley confirmed there would be.

Ms. Stead asked Mr. Cuthbertson if the applicant would be allowed to install an eight-foot fence and Mr. Cuthbertson stated there was no height restriction for fencing in the CS district, so the applicant could have an eight foot tall fence installed.

Mr. Van De Wiele asked Mr. Hartley if the applicant was going to resurface the parking lot and Mr. Hartley stated he did not know. Mr. Hartley stated the applicant works for the City of Tulsa and had been in the meeting until he received a page from his department. Mr. Hartley stated that he would be willing to defer the hearing of this case until the applicant returned to the meeting.

Ms. Stead suggested the hearing of this case be deferred until the end of the meeting or the return of the applicant.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No action at this time; this case will be decided later in today's meeting.

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Case No. 21248-Louis Silva

Action Requested:

Special Exception to permit a home occupation (window film application) within an existing building in an RS-3 district (Section 404.B); and a Variance to permit signs for the home occupation (Section 404.B). **Location:** 704 West 71st Street

Presentation:

Louis Silva, 704 West 71st Street, Tulsa, OK; stated he operates a window tinting business out of his home. He tints window for commercial and residential buildings and some vehicles. Mr. Silva stated that he, basically, had no neighbors except for two who are on property held by the same mortgage company. There are several corporate signs located in the area that are lighted signs. Mr. Silva stated that his sign will be 32 square feet, will not be lit and will not be 20 feet in the air; it will be located on the corner of the house facing 71st Street. There will also be a small two-sided A-frame sign located near the street at the end of the driveway.

Ms. Stead told the applicant that only family members could participate in a home occupation, and asked Mr. Silva if he had any employees. Mr. Silva stated that the business consisted of only him and that he had no employees.

Ms. Stead told Mr. Silva that he should actually have the zoning changed on the property, and Mr. Silva stated that he was only renting the property.

Ms. Stead asked Mr. Cuthbertson if the A-frame sign could be approved for seven and half square feet per side, and Mr. Cuthbertson stated that when the display surface is being calculated for signage, it is assuming that the display area will be on each side of the 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 Special Exception to permit a home occupation (window film application) within an existing building in an RS-3 district (Section 404.B); and a Variance to permit signs for the home occupation (Section 404.B). The Board finds that, although this property is zoned RS-3, it is not in any way a traditional residential property. There are only three single-family dwellings at the southwest corner of West 71st and South Jackson Avenue, and they are all under common ownership. The grouping of RS-3 zoned lots is included in a block that is exclusively commercial which contains Tulsa Hills. The Board has found that the applicant is the only employee of the window tinting business. The applicant has indicated that he will comply with the code requirements and conduct the occupation within the enclosed principal building or customary accessory building, with all other conditions applicable, such as noise, dust, odor, and alterations. There shall be no outside storage of materials or items associated with the occupation. A maximum of 500 square feet shall be used in the occupation. Any vehicles shall be parked off the street on an all-weather surface. The applicant will remove all temporary signs, flags, and streamers that are presently on the property. This approval, as to the variance for signs, will permit a 2.5' x 3', or 15 square feet counting both sides, two-sided A-frame sign at the driveway abutting West 71st Street as well as a 7' x 4.5' feet, or 31.5 square feet wall sign, which shall be installed on the east corner of the building that faces West 71st Street. In granting the special exception the Board has found that 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 variance the Board has found by reason of extraordinary or exceptional conditions or circumstances, mainly the zoning all around this property, this is peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, and is in compliance with the Comprehensive Plan; for the following property:

**BEG 360W & 75S NEC NW NE TH W100 S360.6 E100 N360.6 POB SEC 11 18 12,
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

This case is continued from earlier in the meeting.

Case No. 21247-Maxwell Asare

Action Requested:

Special Exception to permit automotive sales (Use Unit 17) in the CS district (Section 701); and a Variance to permit open air storage and display of merchandise offered for sale within 300 ft. of an adjoining R district (Section 1217.C.2). **Location:** 502 East 36th Street North

Presentation:

John Hartley, 201 West 5th Street, Suite #501, Tulsa, OK; stated he had spoken with the applicant about the proposed use of the property. There will be no paint and body work, the property will be for car sales with minor repair work. The property had been previously used as a paint and body shop but that is not the proposed use.

Ms. Stead asked Mr. Hartley if he understood that the Board does not want any repair services outside. Mr. Hartley told Ms. Stead that the applicant will assure the Board there is adequate space within the building to perform minor repairs inside the building.

Mr. Tidwell stepped out of the meeting at 3:08 P.M.

Mr. Hartley stated that Mr. Asare, the applicant, had checked with the EPA and there is no record of existing underground fuel tanks. In regards to the existing pavement, he proposes to patch and repair the existing pavement rather than replace it at the present time. As to the fencing and screening, the applicant will comply with the code. Mr. Cuthbertson stated there is no screening requirement for this property as it is surrounded by an agricultural zone. Mr. Hartley stated in that case the applicant would like to install an eight foot screening fence, unless the Board would like to have something else.

Mr. Tidwell reentered the meeting at 3:12 P.M.

Mr. Van De Wiele stepped out of the meeting at 3:13 P.M.

Mr. Hartley stated that about one-third of the lot is not paved and the building sits at the south end of the paved area.

Ms. Stead asked Mr. Cuthbertson if landscaping would be required. Mr. Cuthbertson stated the code will have a landscape requirement, and this Board has the authority to apply conditions above and beyond the code's requirement if it feels necessary.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Mr. Van De Wiele reentered the meeting at 3:17 P.M.

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 automotive sales (Use Unit 17) in the CS district (Section 701); and a Variance to permit open air storage and display of merchandise offered for sale within 300 ft. of an adjoining R district (Section 1217.C.2). Regarding the special exception for automotive sales, there are no automotive sales uses within any near distance of this particular location, and the land is zoned CS but it is surrounded by other CS, AG and CH districts, and the nearest R district is actually hidden from view of this particular location. Regarding the open air storage and display of merchandise offered for sale, this will be closest to the residential area to the northwest, which is actually not even in view of this property because of the elevation difference. The conditions being there will be no outside repair services of any kind at this particular location. All of the existing concrete surfaces will be patched so they are in serviceable condition. This approval will be per conceptual plan on page 9.8. In granting the variance this 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 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 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 2 BLK 1, N208.71 OF E104.35 OF W208.7 OF NE NW SEC 24 20 12, CARL'S GREEN VALLEY ADDN L2-6 B1, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21249-Courtney Cantrell

Action Requested:

Special Exception to permit a home occupation (salon) in the existing dwelling in the RS-3 district (Section 402.A). **Location:** 8140 South Yukon Street West

Presentation:

Courtney Cantrell, 8140 South Yukon Street West, Tulsa, OK; stated she proposes to install a single-chair salon using the side door in the garage as the entrance for the salon.

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 home occupation (salon) in the existing dwelling in the RS-3 district (Section 402.A) which will be subject to the business plan submitted by the applicant today on page 11.6. The entry for the salon will be a side garage door. In granting the 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; for the following property:

N110 S333 LT 6, ROSS HOMESITE SUB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Case No. 21250-Tanner Consulting, Inc.

Action Requested:

Special Exception to permit school use (Use Unit 5) in an RS-3 district (Section 401). **Location:** 2190 South 67th East Avenue

Presentation:

Ricky Jones, Tanner Consulting, Inc., 5323 South Lewis Avenue, Tulsa, OK; stated that after he filed the application he had received a couple of telephone calls from interested parties in the neighborhood. He spoke with them and explained to them what Tanner's client was trying to accomplish. There was also a meeting about four months ago with the neighborhood, and Mr. Jones thought things had been worked out at that time. On his arrival at the meeting today he discovered there were interested parties present and they have a petition of opposition. Mr. Jones would like to request a continuance today; he has been in contact with the architect and Tulsa Public Schools and they would like to be present at the meeting and to meet with the interested parties to work out any concerns. Mr. Jones spoke with the interested parties and he understands they do not want a continuance of this case. Mr. Jones asked the Board for a continuance to the next regular scheduled meeting.

Ms. Stead stated that if the case were to be granted a continuance she wanted to know the difference between Educare and Day Care.

Interested Parties:

Molly McKay, 6715 East 24th Street, Tulsa, OK; stated she is opposed to a continuance because there are problems that are not able to be addressed by meetings, such as traffic. Ms. McKay stated that if the case were not granted a continuance she has 17 reasons why this case should not be granted a special exception.

Pam Sharman, 6705 East 24th Street, Tulsa, OK; stated she opposes the request for continuance because there are numerous issues that she does not believe will be resolved, such as traffic and parking problems on the small residential street.

Robert Reed, 6597 East 24th Street, Tulsa, OK; stated he is the very first house on the corner and he objects to a continuance.

Sandra Eaton, 6550 East 24th Street, Tulsa, OK; stated she objects to the continuance. She took off work today to be at this meeting and would like to have a resolution today.

Comments and Questions:

Ms. Stead stated she is disappointed that a neighborhood would come to a meeting and be unwilling to listen to an applicant regarding a project, regardless of what the project is or where it is located. Ms. Stead stated she understands that the meetings are held during the day and that it is inconvenient for people who work for a living.

Mr. Henke stated that if a person cannot attend a meeting they can state an objection or opposition to a case in other forms, such as a letter, and the Board does read those letters.

Mr. Van De Wiele stated the Board has generally given applicants the opportunity to continue their matter if circumstances arise where they need to have other people here to provide information that will be important to the Board's decision-making process.

Mr. Tidwell asked Mr. Jones who would attend the next meeting if the case were granted a continuance. Mr. Jones stated representatives from the architect firm and representatives from Tulsa Public Schools would like to be present.

Ms. Molly McKay came forward to address the Board's concern about the neighborhood not wanting to speak with the representatives of the project. Ms. McKay stated the neighborhood had a session with the representatives at Whitney about five months ago. The architect was in attendance and the Tulsa Public Schools representatives were also present, not only was it not resolved, it was very contentious.

Mr. Van De Wiele asked Mr. Jones if there had been any changes from the meeting of about five months ago until now. Mr. Jones stated he was not aware of that meeting and had not attended, so he is not sure.

Mr. White stated that traditionally the Board will give one continuance request to each side, but in this case the parties concerned have met but it seems as though some conditions have changed. There apparently seems to be a breakdown in communications. He questioned if that is something this Board will be able to resolve.

Mr. Henke stated, and the other Board members concurred, that the 17 reasons that Ms. McKay presented to the Board today need to be given serious consideration, and with the presentation being today the Board has not had time to read the reasons. Also, Mr. Henke stated he would like to hear what the representatives from Tulsa Public Schools have to say, therefore, he would support a continuance of this case.

Mr. Van De Wiele told the interested parties that they could submit a written statement of their support or opposition through INCOG, and it would be submitted to the Board as part of their agenda packet if the interested parties would choose to not come to the next meeting.

Ms. Stead stated that in a quick glance of the 17 reasons presented today, there are at least five issues that cannot be addressed by the Board of Adjustment. Ms. McKay stated that these were comments from about 80 people. These are a compilation of their concerns, and Ms. McKay stated she understood that there were a few items that would not be considered by the Board, but one of the items that the Board should consider is the traffic situation.

Ms. Stead asked Ms. McKay who were the people that signed the petition, and Ms. McKay stated they are people who either work in the area, live on two streets south of the area, or they have children who attend school at Whitney.

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** the request for a **Special Exception** to permit school use (Use Unit 5) in an RS-3 district (Section 401) to the April 26, 2011 Board of Adjustment meeting; for the following property:

E93.28 LT 3 ALL LTS 4 THRU 10 INCL BLK 1 & E93.54 LT 3 ALL LTS 4 THRU 10
INC BLK 2 & 60 VAC 22ND ST ADJ BLKS 1 & 2, COZY ACRES, CITY OF TULSA,
TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS:

None.

BOARD MEMBER COMMENTS:

None.

There being no further business, the meeting adjourned at 3:42 p.m.

Date approved: _____

5/10/11



Chair