

**CITY BOARD OF ADJUSTMENT**  
**MINUTES of Meeting No. 1046**  
**Tuesday, April 26, 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 White, Vice Chair	Tidwell, Secretary Van De Wiele	Alberty Cuthbertson Sparger	Boulden, Legal Edmiston, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, April 20, 2011, at 3:34 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 April 12, 2011 (Meeting No. 1045) minutes will be carried to the next meeting on May 10, 2011.

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**NEW APPLICATIONS**

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**21252-Roy Johnsen**

**Action Requested:**

Variance of the setback requirement for a building in the IL district from an abutting R district (Section 903) from 75 ft. to 10 ft. **Location:** 1346 West 39<sup>th</sup> Street

**Presentation:**

**Roy Johnsen**, One West 3<sup>rd</sup> Street, Suite 1010, Tulsa, OK; requested a continuance for 90 days, or until July 26, 2011, on behalf of his client because he would like to have his case heard before the Board of all five members.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Mr. Cuthbertson stated there would be new notices sent on the approach of 90 days ending. It is not a requirement to send the new notices but the applicant has requested new notices to be sent; instructions from the Board regarding the notices would help.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 3-0-0 (Henke, Stead, White "aye"; no "nays"; no "abstentions") to **CONTINUE** the request for a Variance of the setback requirement for a building in the IL district from an abutting R district (Section 903) from 75 ft. to 10 ft. for a period of 90 days or until the July 26, 2011 Board of Adjustment meeting and extending the normal continuance time to 90 days the Board directs that notices be forwarded to properties in a 300'-0" radius before the July 26<sup>th</sup> meeting; for the following property:

**LOT 5 LESS BG SW COR TH N 329.15' SE 250.96 S 115 W 130' TO BG FOR HWY BLK 6, INTERURBAN ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**21254-Roy Johnsen**

**Action Requested:**

Variance of the minimum required lot width in the RS-1 district from 100 ft. to 80 ft. (Section 403) to permit lot-splits. **Location:** 2914 East 44<sup>th</sup> Place South

**Presentation:**

**Roy Johnsen**, One West 3<sup>rd</sup> Street, Suite 1010, Tulsa, OK; Mr. Johnsen requested a continuance on behalf of his client.

**Interested Parties:**

**Jerry Dixon**, 2929 East 45<sup>th</sup> Place, Tulsa, OK; stated he is opposed to the request for continuance because he took off work to attend today's meeting. Mr. White explained to Mr. Dixon that it would be necessary to continue this particular case because he will need to recuse himself from the hearing because his firm did survey work on the subject property, thus with today's Board consisting of three members, which is a quorum, his recusal would leave only two Board members to vote and two Board members can not move on a request. Mr. Dixon conceded.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Stead, White “aye”; no “nays”; no “abstentions”) to **CONTINUE** the request for a Variance of the minimum required lot width in the RS-1 district from 100 ft. to 80 ft. (Section 403) to permit lot-splits to May 10, 2011; for the following property:

**LTS 5 & 6 BLK 7, VILLA GROVE PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**21255—A-MAX Sign Company**

**Action Requested:**

Variance of the maximum display surface area for a sign in the OM district (Section 602.B.4.c) to 240 sq. ft.; a Variance of the maximum permitted height for a sign in the OM district (Section 602.B.4.e) from 20 ft. to 30 ft.; and a Variance of the requirement that illumination of a sign in the OM district shall be by constant light to permit a digital changeable copy sign (Section 602.B.4.f); all to permit a ground sign on E. 81<sup>st</sup> St. **Location:** 2702 East 81<sup>st</sup> Street

**Presntation:**

**Brian Ward**, 9520 East 55<sup>th</sup> Place, Tulsa, OK; requested a continuance.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Stead, White, “aye”; no “nays”; no “abstentions”) to **CONTINUE** the request for a Variance of the maximum display surface area for a sign in the OM district (Section 602.B.4.c) to 240 sq. ft.; a Variance of the maximum permitted height for a sign in the OM district (Section 602.B.4.e) from 20 ft. to 30 ft.; and a Variance of the requirement that illumination of a sign in the OM district shall be by constant light to permit a digital changeable copy sign (Section 602.B.4.f); all to permit a ground sign on East 81<sup>st</sup> Street to May 10, 2011; for the following property:

**LT 1, BLK 1, ORAL ROBERTS UNIVERSITY HGTS 2ND ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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## **UNFINISHED BUSINESS**

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### **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 67<sup>th</sup> East Avenue

#### **Presentation:**

**Ricky Jones**, Tanner Consulting, Inc., 5323 South Lewis Avenue, Tulsa, OK; stated he represents the Educare Facility. Mr. Jones let the Board know there are representatives in the audience today; they are Councilor Chris Trail, District 5; Tulsa Public Schools representatives; and an Educare representative, should the Board have any questions. The subject property was selected after first considering a tract across the street in the Hale-McArthur-Whitney complex. After it became evident the site would not fit the subject plans the project was moved across the street to the west. Educare will be in an approximately 37,000 square foot building, it will accommodate approximately 164 students with 60 staff members, and all of the traffic for drop-off and pick-up will occur off the street. The proposed site plan has been designed for more than sufficient parking; the code requires approximately 76 parking spaces and there are roughly 101 parking spaces designed for the proposed project. The facility will operate year round from 7:00 A.M. to 6:00 P.M., which is different from the typical school. Educare will provide education services along with health and other services for the children and for their families. Based on the statistics that have been studied, in regards to this project, the majority of the students will come from within this school area. Traffic circulation patterns were studied and discussed with Traffic Engineer Mark Brown, and the Tulsa Public Schools are looking at two or three different scenarios that are separate and apart from Educare that will help alleviate some of the traffic congestion in the area. Mr. Jones stated that he thought Educare would be an asset to the neighborhood and will not be injurious to the neighborhood and would request an approval of this request.

#### **Interested Parties:**

**Councilor Chris Trail**, City of Tulsa, 175 East 2<sup>nd</sup> Street, Tulsa, OK; stated Councilor Barnes and Councilor Henderson, each having Educare facilities in their districts, are also present in the audience in support of this proposed project. Educare is a part of the community and wants to be part of the community and wants to do the best it can for the community. Since the meeting that Educare held in February, parking was not a concern then and as of today it is number eight on a list of 17 concerns. There have been no complaints regarding parking in this area which has been verified with the Mayor's office and the Mayor's Action Line. Mr. Trail stated that he had a meeting with Ms. McKay on March 7<sup>th</sup> and March 26<sup>th</sup> of this year and asked if he could help her with any concerns in the neighborhood, and Educare and parking never came up in the

discussions. Mr. Trail stated that Educare is a great program and he presented letters of support from the University of Tulsa President Steadman Upham and four past mayors. Mr. Trail also had Jonathan Brooks from the Tulsa Police Department and Comstat perform an education crime analysis, and with regard to the area Educare in Councilor Barnes's district, there was no change in the crime stats; in Councilor Henderson's district crime went down by 18%, therefore, the stats do not show that Educare will cause an increase in crime. Ninety-two percent of the children at McArthur would be eligible for Educare, and ninety-seven percent of children at Whitney would also be eligible for this program; these are not children from outside of the community, they are children who are in the neighborhood. For each pod, Educare will have a teacher with a master's degree with five years teaching experience. Educare involves the family; these children are not just dropped off. There is counseling, goals, and homework for the parents. The parents must be involved in the day-to-day educational process of the children. Educare not only provides education, there is an on-site medical facility, there is family counseling, and there are mental health specialists on-site. Educare is not a handout but a hand up, because for a child to be eligible for enrollment the parent(s) must be employed, or in vocational training.

**Karen Calhoun**, Educare, 3420 North Peoria, Tulsa, OK; stated most of the children arrive about 30 minutes before the parent must report to work, and are picked up about 30 minutes after the parent leaves work. Educare does not encourage a parent to leave their children for the full 11-hour day but some children are in attendance about nine hours, which depends on the parents' work day.

**Molly McKay**, 6715 East 24<sup>th</sup> Street, Tulsa, OK; stated she and her husband own the office building located at 2301 South Sheridan. Their home and office building are each located within one block of the proposed site. Ms. McKay stated it is quite intimidating for a citizen to stand before the Board, particularly since the person must stand up in front of an audience and knowing that their presentation is being recorded for television. Some people perceive that when there is a confrontation between a Board member and a speaker there is an indication that there may be some bias. Due to an after-meeting conversation that was picked up by an open microphone after the last meeting, Ms. McKay feels there has been a biased opinion formed by the Board of Adjustment, and since there are only three Board members present today, Ms. McKay stated she is representing over 100 people today, and she is asking City Legal Counsel to archive the April 12<sup>th</sup> TGOV recording.

Mr. Boulden stated that he does not have control over that portion of the meeting, but he thought the recordings are retained.

Ms. McKay stated that today she will be addressing the points eight through twelve, and number four on the petition of 17 concerns from the neighborhood which were presented to the Board at the last meeting because these are the common areas of agreement of the people who signed the petition. Ms. McKay presented a second handout, which contains seven pages of a petition that is signed by 40 people from other neighborhood associations surrounding this area which will be adversely affected

by the proposed facility. There is also a letter from a lady in the neighborhood who opposed the building. There is a petition from people who attended a t-ball practice on the site of the proposed project. There are photos showing curb-deep flooding of the Clear Tone Hearing Aids parking lot, to the west of the subject property, over the weekend. There is a large drawing included in today's handout that clearly shows two large stormwater detention ponds that are part of the proposed site. There is also a topographical map showing elevations of Ms. McKay's office building, which is the same elevation as the west end of the proposed site.

Ms. McKay then started with number eight on the petition that had already been presented to the Board. The only access to this subject property is 67<sup>th</sup> East Avenue which is directly in front of Whitney Middle School, which is already a highly congested street due to Whitney Middle School, McArthur Elementary School, and Hale High School all in this same location on adjacent pieces of land. Ms. McKay did not think there was any other location in Tulsa with as high a concentration of schools as this area and now there is a fourth facility proposed for the area. School consolidation will increase the amount of students and the amount of traffic in the area, even without the proposed Educare building. The subject property is used by Whitney Middle School as a bonus play area, and it is an area where children wait for their siblings and friends after school. It is also an area that is used as a park, i.e., soccer and baseball groups use it for practice and games. Placing a building, parking lots, and stormwater retention ponds on the land will make this area substantially unsuitable for these uses and will remove a widely used and valuable recreational resource from the community. If this building must be built it should be built where it is needed and will be welcomed. With the closing of 14 Tulsa Public Schools, perhaps one of the existing buildings could be used to house this facility, or if that is not feasible, at least use the land where those soon to be vacant school buildings would be located.

**Mr. Patrick Boulden, Legal Counsel, left the meeting at 1:45 P.M. and Mr. Bob Edmiston, Legal Counsel, entered the meeting.**

**Laura Briley**, 3031 South Trenton, Tulsa, OK; stated she opposes the proposed project, and she read a letter that she wrote to the Board. She has been a childcare provider in the Tulsa community for the last 35 years, and she is President and owner of Day Schools, Inc. She built a child care center at 2437 South Sheridan 18 years ago. It was the first child care center in Tulsa County to become National Association of the Education of Young Children accredited, and the facility is also a three-star state certified facility. The school has a capacity of 150 children ranging from six weeks old to school age. The school's enrollment has declined due to the free four year old programs and the full day kindergarten programs provided by Tulsa Public Schools. Due to the decline in the enrollment more space has been provided for the infant and toddler programs. The school accepts children on tribal subsidy and subsidized

children from DHS; the enrollment has increased for subsidized children that the school cares for. The school still has space and can accept more children for enrollment. Ms. Briley stated that she would question whether there has been a need study for an Educare program in this particular area of Tulsa. It appears there is a heavy concentration of early headstart facilities and Educare facilities in this particular area of Tulsa. She stated if the proposed facility is built then the likelihood of her business closing will be inevitable and 25 employees will not have a job. There are other childcare facilities in this area and their businesses will also close. Ms. Briley stated her childcare facility is open year round from 6:00 A.M. to 6:00 P.M. to meet the working parents' needs as well as winter and summer vacation, snow days, and holidays. Ms. Briley stated she was the first childcare facility to lease space from Tulsa Public Schools in the early 1980s. Why not spread the Educare facilities throughout Tulsa because the chosen area is surrounded by single-family housing and older families; therefore, she would question whether there was a need assessment performed before this decision. Ms. Briley stated with the closing of schools why would tax dollars and private funding be spent on a new facility in this area? Ms. Briley strongly urges the Board to deny the request to build this facility at this location, which will cost millions of dollars to build as well as to maintain.

Mr. Henke asked Ms. Briley if she was suggesting Educare was daycare as an educator when she referenced item number one, Exhibit 2.12. Ms. Briley stated she was because her facility and the Educare are both the same.

**Lou Stackler**, 6735 East 25<sup>th</sup> Place, Tulsa, OK; stated the subject property is used by approximately 150 children and adults every week because it is one of the few open areas in Tulsa that is in a neighborhood that can be used for soccer, baseball, or flying a kite. He would not want to lose that area to a building. Mr. Stackler stated Educare is a good idea, but there will soon be schools closed and empty.

**Robert Reed**, 6597 East 24<sup>th</sup> Street, Tulsa, OK; stated he lives on the corner near the subject property, and he feels the brunt of everything that happens in the neighborhood. He sees the traffic and sees the daily trash accumulation. There used to be a no parking sign near his home but it is now gone because someone knocked it over to park where the sign was and the City has not replaced the sign. Mr. Reed stated he had submitted a letter yesterday and hopes the Board has had time to review it. Apparently there have been traffic studies performed in the neighborhood because since he has lived in the house, the corner of 67<sup>th</sup> East Avenue and 24<sup>th</sup> Street has gone from a two-way stop to a four-way stop. Also, there have been speed humps installed from Sheridan to Memorial on 24<sup>th</sup> Street, which verifies there is a traffic issue. Mr. Reed stated his house backs up to the subject property, and north of the subject property is an assisted living facility; elderly people walk their dogs, drive their scooters and an increase in the traffic flow will not help these people, especially the disabled. The people who use the scooters usually have to maneuver in and out of the parked cars because the sidewalks are blocked with parked cars, drivers actually parking their cars on the sidewalk. Mr. Reed stated that in his abstract the City of Tulsa can claim up to

30 feet of his back property line for the possibility of installing a street from 24<sup>th</sup> Street to Sheridan, and he does not want that to become a possibility.

**Barbara Collier**, 6525 East 24<sup>th</sup> Street, Tulsa, OK; stated the subject property backs up to her land, and she has no problem with the proposed project. She knows it is going to add another 164 cars to the street and over half of them will go by her house. She does have an issue with the traffic. She lives and works in the neighborhood, and drives by Whitney every day; all that is going to happen now is to take the high traffic time and expand that out because there will be another 164 cars added to the area. The retention ponds will probably be in her back yard; she has spent a lot of money in her backyard and she does not want to look at a commercial building. She bought in a residential neighborhood and that is what she would like to maintain. She does not want to deal with water run-off problems which exist before the concrete that will be laid for the Educare facility.

**Rebuttal:**

Ricky Jones stated that Tulsa Public Schools has owned the subject property since the late 1950s. The property is not a park, it is used for passive recreation purposes, and it has always been contemplated that someday Tulsa Public Schools will need to expand into the property. Tulsa Public Schools and Educare had a meeting with the neighborhood about three or four months ago to try to advise the neighborhood of what Educare was, what they were doing, talk to them about the plans, and they addressed some concerns there. Mr. Jones stated that he did not attend that meeting but that people had told him there were no issues to be resolved. He stated access seems to be one of the largest issues, and as stated before, there has been a meeting with Mark Brown, Traffic Engineer with the City of Tulsa. The access can be addressed but it cannot be solved. Educare does not think it will be exacerbated by the construction of the Educare facility. Mr. Jones provided that engineering drawings must be prepared and the water run-off cannot be increased. He added once the building is in place it should help cut down on the trash problem because the area will be policed more often. Mr. Jones responded, because of the construction needs and the building code requirements for this age of children, it is impractical to retrofit a building or place it someplace else. Tulsa Public Schools has owned the subject property for a number of years and they did try to site the building across the street, but it could not be done based on the size needed. He added that Tulsa Public Schools was also concerned about endangering children when the large construction equipment starts moving around, and it was not thought that the increased required parking and the number of cars generated was practical so it was more feasible to move it across the street to the west, the proposed property site being discussed today.

Ms. Stead asked Mr. Jones if a needs assessment had been done. Mr. Jones stated that Educare did perform a needs assessment.

Ms. Stead stated that she was concerned about the two retention ponds because she did not see any guards or anything around them, or any details on the proposed plans. Mr. Jones stated that the City of Tulsa requirements will be met. If it is approved,



Educare will be subject to plat and there will either be a plat or plat waiver filed on the subject property. A hydrology analysis will be performed. Educare is not allowed to increase the stormwater run-off any greater than what occurs currently. Because the impervious area is being increased it will be necessary to capture and hold the stormwater. Mr. Jones provided that if it will be necessary to build a fence around the retention ponds, Educare and Tulsa Public Schools will do that, because they do not want to create a safety issue for the children, but it is a City of Tulsa regulatory flood plain.

Ms. Stead asked about the width of the ingress and egress of the driveways, if there was adequate room for cars. Mr. Jones stated there was one ingress and two egress drives proposed and they should be about 40 feet wide combined.

**Comments and Questions:**

Ms. Stead stated the Board of Adjustment must consider the zoning code and the land use above all political concerns.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 3-0-0 (Henke, Stead, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to permit school use (Use Unit 5) in an RS-3 district (Section 401), with the following conditions: that the sidewalks along 67<sup>th</sup> East Avenue shall be maintained in good walking condition, if the sidewalks are damaged during construction they shall be replaced; the lighting and landscape shall be per code; since a public street is dedicated on this property replatting will be necessary. Concerning the issue of the detention ponds the Board requires that Stormwater Management, Tulsa Public Schools, and any other authorities applicable to this property provide safety in the form of fences or other devices necessary to prevent children from entering the detention pond areas. The Board makes this subject to conceptual plan on page 2.7. 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; 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**

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**NEW APPLICATIONS**

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## **Case No. 21251-Andrew Shank**

### **Action Requested:**

**Special Exception** to permit Vehicle Repair and Services (Use Unit 17) in the CS district. **Location:** 1635 South Memorial Drive

### **Presentation:**

**Andrew Shank**, 2727 East 21<sup>st</sup> Street, Suite 200, Tulsa, OK; stated his client is proposing to operate a general mechanic shop in a CS district. Mr. Shank indicated there are numerous Use Unit 17 automotive uses currently in existence on Memorial between 11<sup>th</sup> and 21<sup>st</sup> Streets; there are 21 Use Unit 17 uses, six of which include vehicle repair. The current building is approximately 4,800 square feet and is well equipped for automotive repair use; it has four bays on the west side and two bays on the south side. Mr. Shank provided this configuration will allow his client to perform the proposed mechanic work indoors and on a portion of the property farthest away from the apartments on the northeast side. Mr. Shank stated his client, a trust, owns both parcels and the parcel to the south, and they are currently being used for automotive sales. The client has advised Mr. Shank that the fence shown on the proposed plan has been the agreed-to property line between the two areas since before 2000.

Mr. White asked Mr. Shank to confirm that the property actually goes to 17<sup>th</sup> Street, and Mr. Shank confirmed that observation.

Ms. Stead asked Staff when the tenant had received permission for used car sales, and Mr. Shank stated that he believed it was 1995. Mr. Cuthbertson stated that the subject property, according to the legal description used, was granted the special exception to permit automobile sales in 1995, it was the subject of Case No. BOA-17224. It did use the address of 1645 South Memorial, which today is the address of the property to the south. Mr. Cuthbertson stated he did not know how this address changed; street addresses change from time to time and new tenant spaces are created or property is subdivided. In 1995 the subject property may have had the physical address of 1645 South Memorial and at some point the addresses shifted. The legal description used in Case No. BOA-17224, which granted automobile sales, was applied to the subject property and the subject property only. The property to the south is subject to Case No. BOA-13049, which was granted in 1984. Both properties have the special exception for vehicle sales.

Ms. Stead asked Mr. Shank how many inoperable vehicles were proposed to be stored on the lot and for how long. Mr. Shank stated his client would like to store eight inoperable vehicles for a period of 60 days.

Ms. Stead asked Mr. Shank how he interpreted inoperable, and Mr. Shank stated he interpreted an inoperable vehicle as a vehicle that arrives "dead on arrival". He provided he did not interpret the discussion of the eight cars on the premises to be the cars that are being worked on, so he would have to request some additional cars to be stored on the lot. He did not interpret inoperable to encapsulate every car his client

would ever work on. Mr. Shank stated he was comfortable with the terminology of inoperable because that is easy for an inspector to determine that; if the key will not turn the engine over and the car cannot operate that is an inoperable car.

Mr. White stated he knew both properties were under the same ownership but asked if the tenants were the same business. Mr. Shank stated they were two separate tenants leasing from the same trust.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 3-0-0 (Henke, Stead, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to permit Vehicle Repair and Services (Use Unit 17) in the CS district; subject to the following conditions: all barbed wire on fences abutting the public right-of-way shall be removed; all automobile repairs are to be made inside the building; no outside storage of automobile parts, batteries, tires, or other implements. Inoperable vehicles are limited to eight at any one time and shall remain on the property no more than 60 days. Any signage shall comply with the zoning code particularly as to number and as to materials. The hours of operation shall be 7:00 A.M. to 9:00 P.M. This Use Unit 17, vehicle repair, is the principal use of this property, and is subject to conceptual site plan on page 3.7. 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; for the following property:

**LOT-2-BLK-1, JOHN CALVIN ADDN RESUB L4 B4 O'CONNOR PARK ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21253-Malcolm Rosser**

**Action Requested:**

Special Exception to modify/remove the screening requirement for a Health Center from an abutting R district to the north (Section 212.C). **Location:** NW/c of East 36th Street and North Hartford Avenue

**Presentation:**

**Malcolm Rosser**, 321 South Boston Avenue, Suite 500, Tulsa, OK; stated he represents the Board of Regents of the University of Oklahoma, OU-Tulsa in this case. He indicated the project is the Wayman Tisdale Specialty Health Clinic that is currently under construction, which is at the east end of the old Northland Shopping Center

property located at 36<sup>th</sup> Street North and Hartford. At the north end of the property, the new building and parking area will be substantially lower than the existing grade for the rest of the Northland Center to the west. In fact, the building being constructed is a two-story building and its roof line will be roughly the same as the roof line of the one-story shopping center. The primary reason for the grade differential is to allow city buses to bring patients in through the exit off Hartford thus allowing the patients to be dropped off on a flat surface. The plans call for a 6'-0" structural steel ornamental fence for the rear parking area with two access points for security gates. East 37<sup>th</sup> Street is a new street on a newly-dedicated right-of-way and the right-of-way actually consists of two former residential lots that were dedicated, which resulted in a wider than normal street. The grade differential provides a significant separation of the uses between the two residences to the north and the parking area of the proposed clinic. The reason for the special exception request, to remove the screening requirement, is to allow access to the steep area for mowing or maintenance.

Ms. Stead asked Mr. Rosser if there was any landscaping proposed north of the fence, and Mr. Rosser stated that there would be landscaping all around the clinic area.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 3-0-0 (Henke, Stead, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Special Exception to modify/remove the screening requirement for a Health Center from an abutting R district to the north (Section 212.C). The applicant has proposed constructing a 6'-0" ornamental steel security fence around the north parking area, and will provide landscaping as shown on landscape plans submitted today. This will be subject to conceptual plan on page 5.5. 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; for the following property:

**A TRACT OF LAND THAT IS LOCATED IN NORTHLAND CENTER IN THE SOUTHWEST QUARTER (SW/4) OF SECTION THIRTEEN (13), TOWNSHIP TWENTY (20) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, OKLAHOMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF BLOCK ONE (1) NORTHLAND CENTER, THENCE S89°50'14"W A DISTANCE OF 120.82 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S89°50'14"W A DISTANCE OF 175.36; THENCE N00°03'11"E A DISTANCE OF 592.20 FEET; THENCE N36°11'50"E A DISTANCE OF 18.69 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ON A CURVE TO THE LEFT WITH A RADIUS OF 201.35 FEET AND AN ARC LENGTH OF 127.20 FEET WHOSE CHORD BEARS**

S71°54'07"E A DISTANCE OF 125.10 FEET; THENCE DUE EAST A DISTANCE OF 150.23 FEET TO THE WEST RIGHT OF WAY OF HARTFORD AVENUE; THENCE SOUTHERLY ALONG THE WEST RIGHT OF WAY OF HARTFORD AVENUE ON A CURVE TO THE LEFT WITH A RADIUS OF 1960.00 FEET AND AN ARC LENGTH OF 226.37 FEET WHOSE CHORD BEARS S0°12'46"E A DISTANCE OF 226.24 FEET; THENCE S03°31'17"E A DISTANCE OF 95.05 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 4701.54 FEET AND AN ARC LENGTH OF 132.63 FEET WHOSE CHORD BEARS S02°42'48"E A DISTANCE OF 132.62 FEET; THENCE S89°50'14"W A DISTANCE OF 118.74 FEET; THENCE S00°09'46"E A DISTANCE OF 114.00 FEET TO THE POINT OF BEGINNING. LEGAL DESCRIPTION PREPARED BY R. WESLEY BENNETT, OK PLS 1562 WITH, THE BEARINGS BASED ON THE FINAL PLAT OF THE NORTHLAND CENTER, TULSA COUNTY, STATE OF OKLAHOMA.

A TRACT OF LAND BEING A PART OF BLOCK ONE (1), NORTHLAND CENTER TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 2190, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 1, NORTHLAND CENTER TO THE CITY OF TULSA; THENCE SOUTH 89°50'13" WEST ALONG THE SOUTH LINE OF BLOCK 1 A DISTANCE OF 120.82 FEET; THENCE NORTH 0°09'47" WEST A DISTANCE OF 114.0 FEET; THENCE NORTH 89°51'01" EAST A DISTANCE OF 118.74 FEET TO A POINT ON A CURVE AND THE EAST LINE OF BLOCK 1; THENCE IN A SOUTHERLY DIRECTION ON A 1°13'07" CURVE TO THE RIGHT HAVING A RADIUS OF 4701.54 FEET AND A LENGTH OF 114.0 FEET TO THE POINT OF BEGINNING, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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**Case No. 21256-HRAOK, Inc.**

**Action Requested:**

Variance of the maximum amount of required front yard permitted to be covered with an all-weather surface in the RS-3 district from 34% to 45% to permit three car wide driveways in front of three car garages (Section 1303.D). **Location:** East of the northeast corner of East 51<sup>st</sup> Street and South 177<sup>th</sup> East Avenue

**Presentation:**

**Dwayne Wilkerson**, HRAOK, Inc., 1913 West Tacoma, Broken Arrow, OK; stated the proposed project is a continuation of the existing projects that surround the site to the north and the east. All of the lots that HRAOK will provide are going to be larger than the lots that surround them.

Ms. Stead stopped Mr. Wilkerson and suggested he request a continuance because there are only three Board members present today, and she thought it would be better to have this case heard by a full Board. Mr. Wilkerson paid heed to Ms. Stead's suggestion and requested a continuance to the next Board of Adjustment meeting.

**Mr. Henke stepped out of the meeting at 2:51 P.M.**

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Mr. Henke re-entered the meeting at 2: 53 P.M.**

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Stead, White "aye"; no "nays"; no "abstentions") to **CONTINUE** the request for a Variance of the maximum amount of required front yard permitted to be covered with an all-weather surface in the RS-3 district from 34% to 45% to permit three-car wide driveways in front of three car garages (Section 1303.D) to May 10, 2011; for the following property:

**A tract of land situated in the Southwest Quarter (SW/4) of Section 25, Township 19 North, Range 14 East, of the Indian Base and Meridian, City of Tulsa, Tulsa County, State of Oklahoma, according to the U.S. government survey thereof, said tract being more particularly described as follows: Beginning at the Southeast Corner of the Southwest Quarter (SW/4) of said Section 25; Thence N 89° 56' 51" W, along the South Line of the Southwest Quarter (SW/4) of said Section 25, a distance of 1411.00 feet; Thence N 00° 02' 49" E a distance of 1210.82 feet, to a point on the South line Block 7 of "Stonegate" a subdivision to the City of Tulsa recorded as Plat No. 5992; Thence S 89° 56' 33" E, along the South line of said "Stonegate" and along the South line of "Stonegate II" a subdivision in the City of Tulsa recorded as Plat No. 6269, a distance of 1230.79 feet; Thence S 00° 03' 27" W, along the Platted Right of Way of South 185<sup>th</sup> East Avenue per "Stonegate II", a distance of 71.07 feet; Thence S 89° 56' 33" E, along the Platted Right of Way of South 185<sup>th</sup> East Avenue per "Stonegate II", a distance of 60.00 feet; Thence along a curve to the right, along the Platted Right of Way of South 185<sup>th</sup> East Avenue per "Stonegate II", having a tangent bearing of N 00° 03' 27" E, a radius of 25.00 feet, a central angle of 90° 00' 00", an arc distance of 39.27 feet, a chord bearing of N45° 03' 27" E and a chord distance of 35.36 feet; Thence S 89° 56' 33" E a distance of 95.17 feet, to a point on the East line of the Southwest Quarter (SW/4) of said Section 25; Thence S 00° 02' 39" W, along the East line of the Southwest Quarter (SW/4), a distance of 1164.63 feet, to the Southeast Corner of the Southwest Quarter (SW/4) and the Point of Beginning. The non-astronomic bearings for said tract are based on an assumed bearing of**

**N 89° 56' 51" W, along the South Line of the Southwest Quarter (SW/4) of Section 25, Township 19 North, Range 14 East, of the Indian Base and Meridian, City of Tulsa, Tulsa County, State of Oklahoma, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 20898-A—Steve Coble**

**Action Requested:**

Modification of a condition of a previous approval to eliminate or extend the time limitation of two years for an existing Use Unit 12a use (bar) within 150 ft. of R zoned land in the CS district. **Location:** 12630 East 31<sup>st</sup> Street South

**Presentation:**

**Steven Coble**, 12630 East 31<sup>st</sup> Street, Tulsa, OK; stated he has expanded the existing bar from three units to four units, and is here today to request a modification on his time limitation.

Ms. Stead asked Mr. Coble if the Meals on Wheels parking area was still available for him to use for parking, and Mr. Coble confirmed that it is.

**Interested Parties:**

**John Ridley**, 12631 East 31<sup>st</sup> Place, Tulsa, OK; stated that he had been before the Board in the past regarding this case, and at that time Mr. Ridley stated that he was in opposition of the bar being allowed to open in the neighborhood. But today he is appearing before the Board to show his support for Mr. Coble, because Mr. Coble has been a good neighbor and has taken care of all the problems that he had complained about in the past.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 3-0-0 (Henke, Stead, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Modification of a condition of a previous approval to eliminate or extend the time limitation of two years for an existing Use Unit 12a use (bar) within 150 ft. of R zoned land in the CS district. The Board has found that the applicant has satisfied the neighborhood requirements from the previous approval and the Board grants the time limitation to be eliminated; for the following property:

**LT 1 BLK 1, DORTHY JEAN ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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## **Case No. 21261-City of Tulsa**

### **Action Requested:**

Variance of the front yard requirement in the RM-1 district (Section 403) from 25 ft. to 10 ft. **Location:** 729 - 739 North Quincy Avenue

### **Presentation:**

**Ed Sharrer**, Planner in the Planning Department for the City of Tulsa, 175 East 2<sup>nd</sup> Street, Tulsa, OK; stated he has been working with Dennis Whitaker, a planner for the Crutchfield Neighborhood. The Tulsa Development Authority had 17 single-family lots that were for sale in the Crutchfield Neighborhood. The lots were put out for private bid and no bidders were received. Tulsa Habitat for Humanity then came forward to purchase all the lots and to build owner-occupied single-family houses on a number of these lots. Tulsa Development Authority requested that as part of the sale, some design guidelines be crafted for how the properties were to be built, i.e., that there were some variances to the façades so it would not be a cookie-cutter design. A very simple set of design guidelines was crafted by the Planning Department, and accepted with full support by the Tulsa Habitat for Humanity, the Crutchfield Neighborhood, and the Tulsa Development Authority. These houses will be built so they will be a good fit for the neighborhood, good infill and a positive neighbor. New houses will maintain the setbacks for the front and side yards as established by the other houses on the same street, and the houses in Crutchfield are built closer to the street than what the required setback would allow. Tulsa Development Authority and the City of Tulsa agreed to pursue the variances on behalf of these lots. The variance request is to allow the four new homes to be built up to the prevailing setback of the rest of the houses on the same street for continuity and good concepts.

### **Interested Parties:**

There were no interested parties present.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **STEAD**, the Board voted 3-0-0 (Henke, Stead, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the front yard requirement in the RM-1 district (Section 403) from 25 ft. to 10 ft. The Board has found that the alignment of frontages with the existing dwellings should be accomplished. If the homes were to comply with the 25 feet front yard requirement they would be incompatible with the existing neighborhood pattern and out of character. The Board requires that any existing sidewalks be cleared of debris and grass and that if the sidewalks are damaged in construction they shall be replaced. Buildings will comply with all design criteria shown in the packet and the setback from the frontage is shown on page 10.6. 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. It would also make the new buildings incompatible with that of the existing neighborhood. These circumstances do not apply generally to other property in the same use district and the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**LTS 33 – 40; BLK 15, CAPITOL HILL SECOND ADDN CORR, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21262-City of Tulsa**

**Action Requested:**

Variance of the required front yard in the RM-1 district (Section 403) from 25 ft. to 17 ft. **Location:** 718 North St. Louis Avenue

**Presentation:**

**Ed Sharrer**, Planner in the Planning Department with the City of Tulsa, 175 East 2<sup>nd</sup> Street, Tulsa, OK; stated all reference materials and proposed plans are in the Board's agenda packet and 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 3-0-0 (Henke, Stead, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the required front yard in the RM-1 district (Section 403) from 25 ft. to 17 ft. The Board finds that the existing homes in the neighborhood are set more forward than the required 25 feet and the 17 feet dimension would be more in compliance with the existing setback. If the homes were built at 25 feet they would be incompatible in setback with the existing homes. The conditions are to be that the sidewalks are to be cleaned of all debris and grass, and if the sidewalk is damaged during construction the sidewalk will be replaced, subject to conceptual plan on page 11.6. This home will be built in conjunction with the design guidelines as submitted and starting on page 11.8, 11.9 11.10 and 11.11. 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-5-BLK-9, INGRAM-LEWIS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21263-City of Tulsa**

**Action Requested:**

Variance of the front yard requirement in the RM-1 district (Section 403) from 25 ft. to 15 ft. **Location:** 1029 - 1043 East Easton Street

**Presentation:**

**Ed Sharrer**, Planner in the Planning Department with the City of Tulsa, 175 East 2<sup>nd</sup> Street, Tulsa, OK; stated all reference materials and proposed plans are in the Board's agenda packet and no presentation was made.

**Interested Parties:**

**Philippe J. DeLeon**, 12525 East 35<sup>th</sup> Street, Tulsa, OK; stated he owns the house located at 1015 East Easton and he wants to know what is going to happen in the neighborhood. Ms. Stead stated there would be Habitat for Humanity new homes on the subject lots. Mr. Henke stated the proposed homes would be beneficial to Mr. DeLeon's neighborhood and beneficial to his property value. Mr. Cuthbertson stated that there would be no physical effect to Mr. DeLeon's property.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Stead, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the front yard requirement in the RM-1 district (Section 403) from 25 ft. to 15 ft., finding that the hardship is that to align the fronts of the houses with the existing homes in the neighborhood would put them forward of the required 25 foot building line and if they were built back at the 25 feet line they would be incompatible with the neighborhood. The requirement will be that the sidewalks be cleared of all debris and grass, and if they are damaged during construction they will be replaced. These homes will be built in conjunction with the design guidelines submitted on pages 12.8, 12.9, 12.10 and 12.11, and this will be per conceptual plan on page 12.6. 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:

**E 3 LT 36 ALL LTS 37 – 44; BLK 6, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**Case No. 21264-City of Tulsa**

**Action Requested:**

Variance of the front yard requirement in the RM-1 district (Section 403) from 25 ft. to 13 ft. **Location:** 1009 and 1013 East Haskell Street

**Presentation:**

**Ed Sharrer**, Planner in the Planning Department with the City of Tulsa, 175 East 2<sup>nd</sup> Street, Tulsa, OK; stated all reference materials and proposed plans are in the Board's agenda packet and 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 3-0-0 (Henke, Stead, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Variance of the front yard requirement in the RM-1 district (Section 403) from 25 ft. to 13 ft. Finding that the hardship being the alignment of the front of the houses in this neighborhood is well forward of the required 25 feet and that to make the new construction be subject to the 25 feet the houses would be incompatible with the neighborhood. This will be per conceptual plan on page 13.6, and subject to the design guidelines submitted on pages 13.9, 13.10, 13.11, and 13.12. Sidewalks are to be cleared of all debris or grass and if the sidewalk is damaged during construction it is to be replaced. 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:

**LTS 27 – 30, BLK 3, FRISCO ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**OTHER BUSINESS**

None.

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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 3:28 p.m.

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

5/10/11



Chair