

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1067  
Tuesday, March 27, 2012, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2<sup>nd</sup> Street

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Henke, Chair Stead Tidwell, Secretary Van De Wiele White, Vice Chair		Alberty Back Sparger	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, March 22, 2012, at 10:57 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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Ms. Back 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"; none absent) to **APPROVE** the **Minutes** of the March 13, 2012 Board of Adjustment meeting (No. 1066).

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**UNFINISHED BUSINESS**

**21349—Rodney Edwards**

**Action Requested:**

**Variance** of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign in an OL district (Section 602.B.4.f). **LOCATION:** 6301 South Mingo Road East **(CD 7)**

**Presentation:**

No presentation was made. The applicant has requested a continuance to the Board of Adjustment on May 8, 2012.

**Interested Parties:**

None.

**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"; none absent) to **CONTINUE** the request for a **Variance** of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign in an OL district (Section 602.B.4.f) to the meeting of May 8, 2012; for the following property:

**W249.42 LT 16 LESS BEG SWC TH N158.15 E20 SW14.14 S148.15 W10 POB FOR RD BLK 7, BALDWIN ACRES RESUB L13-15 B7 UNION GARDENS, UNION GARDENS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**OTHER BUSINESS**

**21349—Rodney Edwards (Greg Helms)**

**Action Requested:**

**Variance** of the requirement that illumination of a sign shall be by constant light to permit an LED element on a sign in an OL district (Section 602.B.4.f). **LOCATION:** 6301 South Mingo Road **(CD 7)**

**Presentation:**

No presentation was made.

**Interested Parties:**

None.

**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"; none absent) to **APPROVE** the request for a refund in the amount of \$173.52; for the following property:

W249.42 LT 16 LESS BEG SWC TH N158.15 E20 SW14.14 S148.15 W10 POB FOR  
RD BLK 7, BALDWIN ACRES RESUB L13-15 B7 UNION GARDENS, UNION  
GARDENS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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### UNFINISHED BUSINESS

#### 21357—Andrew Shank

##### Action Requested:

Variance from the requirement that a sign in the Residential Multifamily (RM-1) District be lit by constant light for existing sign to accommodate for an electronic message center (Section 602.B.4.f); Variance to reduce setback from 20 feet to 18 feet from the driving surface on South 91<sup>st</sup> East Avenue and setback from 19 feet from driving surface on East 61<sup>st</sup> Street to allow for the overhang of an Electronic Message Center added to an existing sign (Section 1221.C.2.b). LOCATION: SW/c of East 61<sup>st</sup> Street and South 91<sup>st</sup> East Avenue (CD 7)

##### Presentation:

**Andrew Shank**, 2727 East 21<sup>st</sup> Street, Suite 200, Tulsa, OK; stated this application is seeking a variance from the sign standards in an office district to incorporate a digital element to an existing sign. The client is seeking a variance for the setback requirements for the digital sign if it were to be approved. The new exhibit shows the proposed sign footprint is going to be smaller than as currently exists. The digital display area will be approximately 29 square feet.

##### 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"; none absent) to **APPROVE** the request for a Variance from the requirement that a sign in the Residential Multifamily (RM-1) District be lit by constant light for existing sign to accommodate for an electronic message center (Section 602.B.4.f); Variance to reduce setback from 20 feet to 18 feet from the driving surface on South 91<sup>st</sup> East Avenue and setback from 19 feet from driving surface on East 61<sup>st</sup> Street to allow for the overhang of an Electronic Message Center added to an existing sign (Section 1221.C.2.b). The Board finds that the shape of the entire PUD is such that the only point of access to the property is from 61<sup>st</sup> Street with this particular corner being the only viable place to position a sign indicating the businesses therein. This will be per plan on page 2.9 and page 2.10 using 2.10 for the location of the

existing sign. This approval is subject to Section 1221.C.2 code requirements. In addition to Section 1221.C.2 requirements, there will be no flashing, blinking, scrolling and no animation of graphics. 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 variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**LT 1 BLK 1, WOODLAND VALLEY OFFICE PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21382—Scott Deierlein**

**Action Requested:**

Variance from extending 20 feet into the required front yard to 23 feet (Section 210.B.10.c); Special Exception to permit carport in the required front yard in an RS-3 district (Section 210.B.10.g); Variance of required side yard setback from 5 feet to 2 feet (Section 210.B.10.b). **LOCATION:** 1524 South Indianapolis Avenue East (CD 4)

**Presentation:**

**Scott Deierlein**, 1524 South Indianapolis Avenue, Tulsa, OK; no presentation was made but Mr. Deierlein offered to answer any questions.

**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"; none absent) to **APPROVE** the request for a Variance from extending 20 feet into the required front yard to 23 feet (Section 210.B.10.c); Special Exception to permit carport in the required front yard in an RS-3 district (Section 210.B.10.g); Variance of required side yard setback from 5 feet to 2 feet (Section 210.B.10.b). The Board has noted there are several carports in the neighborhood and according to the records none have been approved by the Board of Adjustment. This will be subject to the as-built drawings shown on pages 4.8 and 4.9. The size of this lot is very difficult to accommodate today's need for additional cars. In granting the variances the Board has found that the size of the lot is an extraordinary or exceptional condition peculiar to this 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 has found it is 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 16 BLK 1, SUNRISE TERRACE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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### **NEW BUSINESS**

#### **21397—Randy Watters**

##### **Action Requested:**

Special Exception to permit carport in the required front yard in an RM-1 district (Section 210.B.10.g); Variance from extending 20 feet into the required front yard to 23 feet from the existing principal building (Section 210.B.10.c); Variance of required side yard setback from 5 feet to 3 feet (Section 210.B.10.b). **LOCATION:** 515 South 45<sup>th</sup> Avenue West (CD 1)

##### **Presentation:**

**Randy Watters**, 515 South 45<sup>th</sup> West Avenue, Tulsa, OK; no presentation was made but Mr. Watters was available for questions.

Ms. Stead stated to Mr. Watters that the code requires parking and driving surfaces be concrete or asphalt, and the existing driveway and parking area is gravel, which is not acceptable.

##### **Interested Parties:**

**Jerry Branch**, 519 South 45<sup>th</sup> West Avenue, Tulsa, OK; stated he opposes to the structure. He presented the Board with a petition showing signatures of eight residents who live on the street between 5<sup>th</sup> and 7<sup>th</sup> who are opposed to the carport.

Ms. Stead asked Mr. Branch why he is opposed to Mr. Watters's carport because there are many carports throughout the neighborhood, and that none of the existing carports in the neighborhood have come before the Board of Adjustment for approval. Mr. Branch stated that even if the other carports are wrong, does that present a precedent to let this carport go by the wayside? Ms. Stead stated that it does not set a precedent but she is curious why this particular carport has been singled out. Mr. Branch stated that he lives next door, south of Mr. Watters, and the carport is within 16 inches of his fence, making it difficult to see when he is backing his pickup out of his driveway. Ms. Stead stated she did not understand that statement because there are no sides on the

carport. Mr. Branch agreed that there were no sides on the carport but it is a sight hazard when he backs out of his driveway in his pickup.

Mr. Van De Wiele asked Mr. Branch if he was stating his concern was that of a safety issue. Mr. Branch stated that was one of the issues. Mr. Van De Wiele asked Mr. Branch what his other issues with the carport were. Mr. Branch stated the carport was out of code. Also, Mr. Watters has gone to great lengths to make the subject property and the property to the north of Mr. Watters very attractive, especially compared to what it had been in the past, and this carport takes away from that presence. The carport is also too close to the property line. Mr. Van De Wiele asked Mr. Branch if Mr. Watters were to have the carport moved two feet to the north, would he be able to accept the carport then. Mr. Branch stated that he did not know because it might still present a visual hazard when he leaves his driveway.

**Rebuttal:**

Mr. Watters came forward and stated he would like to address a few things. He has been in the neighborhood for about 15 years. The neighborhood is not the nicest neighborhood in Tulsa but he has done everything within his means to make his properties nice properties. Mr. Watters presented a petition of supporters from his block. Mr. Watters stated he erected his carport not knowing he needed a permit, because he thought if the structure was not attached to the house it was not considered a permanent structure, therefore, did not need a permit. Since learning he needed a permit he went through the proper procedures to obtain one, has had to pay court fees, pay to obtain blueprints for the carport, and laying in a gravel driveway in the an area that was previously dirt. Mr. Watters stated that if the Board would make note of the trees between his property and Mr. Branch's property, they are a hazard. Mr. Watters stated that he has maintained the pruning of Mr. Branch's trees over the last ten years. The trees are walnut and they drop nuts onto his car. He wants a carport to protect his car from the weather, falling tree limbs, falling walnuts or whatever; he should be able to protect his car. Mr. Watters stated he did not understand his neighbor's comments about the carport being a visual hazard because there is only a little bar between each one of the five-foot spaces, and there is another 20 feet from the end of the carport to the street for him to see traffic.

Mr. Van De Wiele asked Mr. Watters if the large walnut tree in the picture presented to the Board was closer to the street than the carport. Mr. Watters stated that was correct and he has offered to cut the tree down.

Mr. Van De Wiele wanted to let the Board know that after he reviewed both petitions presented by Mr. Watters and Mr. Branch, there is one lady who signed both petitions. There is another set of names who have the same address and one name signed the opposition petition and another name signed the favorable petition.

Mr. Van De Wiele asked Mr. Watters if he could have the carport moved to the north. Mr. Watters stated that he could move it if necessary. He took the carport down because the City told him to dismantle it, and he placed the parts in his backyard. Due

to the environment of his neighborhood he erected the carport again because he did not want the carport pieces to be stolen from his backyard.

**Comments and Questions:**

Ms. Stead stated that neighborhood, or neighbor, problems should not be brought before this Board. She feels this man is facing penalties because he dared to come before this Board to receive permission for something that he should have already done. She resents that there are thousands of carports of descriptions and configurations in Tulsa; it is horrible. This is a man who has tried to present a neat appearance to his property and she would approve this request with the stipulation that asphalt or concrete be installed for the parking and driving surface.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to permit a carport in the required front yard in an RM-1 district (Section 210.B.10.g); **Variance** from extending 20 feet into the required front yard to 23 feet from the existing principal building (Section 210.B.10.c). This approval is with the provision that the existing carport be moved 2'-0" to the north, and that the present gravel surface be replaced with asphalt or concrete, which is dust-free and complies with the code. This lot contains only 6,650 square feet, and it is very difficult to have garages or carports to house today's automobiles. In granting this variance the Board has found there are extraordinary and 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 that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

On **MOTION** of **STEAD**, the Board voted 5-0-0 (Henke, Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **DENY** the request for a **Variance** of required side yard setback from 5 feet to 3 feet (Section 210.B.10.b); all for the following property:

**LT 19 BLK 13, VERNDAL, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

## **21398—Armando Hernandez**

### **Action Requested:**

Special Exception to permit a manufactured home (Use Unit 9) in an RM-2 district (Section 401); Special Exception to extend the one year time limit (Section 404.E.1).

**LOCATION:** 4100 West 8<sup>th</sup> Street South (CD 1)

### **Presentation:**

**Armando Hernandez**, 1501 North 9<sup>th</sup> Street, Sapulpa, OK; no presentation was made.

Ms. Stead asked Mr. Hernandez if he was purchasing a new or used manufactured home for the subject property. Mr. Hernandez stated the manufactured home would be a used home. Ms. Stead asked Mr. Hernandez if he knew the approximate age of the home and Mr. Hernandez stated that it was a 2005 or 2006 model.

Mr. Hernandez stated that he has spoken with Mr. Chuck Lange, of the City, has submitted the necessary blueprints, designated where the driveway was to be and everything connected with the requirements of placing a manufactured home on the property; everything has been approved by the City, including the foundation. The property had a mobile home on it, so the utilities are in place, and the existing driveway is long enough and wide enough to fulfill the guidelines.

### **Interested Parties:**

**Roger Brashear**, 4110 West 8<sup>th</sup> Street, Tulsa, OK; stated that he does not really have an objection to the manufactured home being placed on the lot because there was one on it before. There are undesirable issues in the neighborhood and he is concerned that when the residents see a manufactured home placed on the lot, it will be thought that manufactured homes are okay for the area. For that reason he does not want to see a manufactured home placed on the property permanently. Mr. Brashear stated that Mr. Hernandez has told him that he plans to build a home on the subject property, and if that is true he would not object to a temporary placement of a manufactured home.

Mr. White wanted the Board to make note that, per the relevant previous actions presented to the Board in their packet, the actual special exception for the time limit on the previous approval runs until May 27, 2013.

Ms. Stead asked Mr. Hernandez if he did intend to build a home on the subject property, and Mr. Hernandez's answer was affirmative.

Mr. Henke asked Mr. Hernandez if a two- or three-year time limit would be enough time to build his home. Mr. Hernandez was hoping to have a five- or six-year time limit because there is a lot of work that needs to be done to the land before building the home. Due to the proximity of the Arkansas River and a levy situated behind the land, he has spoken with the Permit Office and he will need to build a retaining wall to sustain



the soil because the flood gates are right behind the subject property and he wants to have a concrete berm in place to protect the land and home against damage.

**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"; none absent) to **APPROVE** the request for a Special Exception to permit a manufactured home (Use Unit 9) in an RM-2 district (Section 401); Special Exception to extend the one-year time limit (Section 404.E.1); this is subject to conceptual site plan on page 6.6. It is noted that there is an existing special exception permitting a manufactured home on this property which was given on May 27, 2003 for a ten year period of time which will not expire until May 27, 2013. The Board is extending this time limit for an additional four years and it will expire on May 27, 2017. It is also noted that there was a manufactured home previously on this property. The Board also makes this approval subject to the fact that the owner, Mr. Hernandez, will set a manufactured home no more than eight years old, as of today's date, on the property. The manufactured home is to be skirted and tied down. The driveway will provide for two parking places as required by code, but the spaces may be stacked; for the following property:

**LT 1 & W 25' VAC 41ST W AVE ADJ BLK 2, HOME GARDENS ADDN, HOME GARDENS SECOND ADDN - TULSA, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21399—Lorinda Elizando**

**Action Requested:**

Variance of separation requirement from outdoor advertising sign to ground sign from 30 feet to 26.67 feet (Section 1221.C.9). **LOCATION:** 10338 East 11<sup>th</sup> Street (CD 5)

**Presentation:**

**Lorinda Elizando**, Lamar Outdoor Advertising, 7777 East 38<sup>th</sup> Street, Tulsa, OK; she presented exhibits to the Board as support to her presentation. She is asking for a variance of 3.33 feet. The subject billboard was built by Lamar in 2007. Ms. Elizando stated that she has brought in a QuikTrip representative if there should be any questions, and she stated QuikTrip is in favor of the variance. The mistake on the project started with an autocad drawing and it was carried throughout the years. That mistake is why the variance is being requested today. The flawed autocad drawing is in QuikTrip's possession, and that drawing depicted the QuikTrip property line five feet farther east of the QuikTrip monument sign than it actually is. The mistake was not discovered until the billboard was in the field and had been constructed. There originally was a walk-around on the billboard which has been removed which allows the

request for the bare minimum of 3.33 feet. It is actually the middle of the torsion tube that Ms. Elizando is asking for the variance. The angle of the billboard is such that it is not the panels that are too close to the QuikTrip sign but the large metal bar which is depicted in the pictures in the agenda packet. There are several hardships. One is the unique shape of the lot in the 11<sup>th</sup> Street and I-169 corridor. ODOT came in and took a lot of access right-of-way to make the clover leaf on the north side now serving the southbound traffic as well, and QuikTrip is attempting to recover some the access right-of-way. There are also a few easements that create a hardship. There is a waterline 20 foot easement that runs north and south just to the east of the billboard pole, and that is a primary concern. The reason the sign cannot be moved over even just a few feet is because there must be a substantial concrete base to secure the sign. If the billboard could be moved to the north or south, there is an AEP-PSO easement that is north of the property. There is also the code that creates a hardship. If the billboard were to be moved north the 30 foot separation from the QuikTrip sign would place the billboard too close to the lighted intersection. If the billboard were to be moved south the 200 foot requirement from the residential district could not be met. Also the billboard must be kept 10 feet back from the ODOT right-of-way.

**Interested Parties:**

There was an interested party present but did not come forward to speak.

**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"; none absent) to **APPROVE** the request for a **Variance** of separation requirement from outdoor advertising sign to ground sign from 30 feet to 26.67 feet (Section 1221.C.9). The applicant has very clearly sited the various hardships, one being the unique shape, which is now burdened by access to unused ODOT right-of-way along the east boundary, utility easements on the north, south and east sides, and a PSO easement on the north. If the billboard were to be moved it would be too close to the lighted intersection, which requires a 50-foot distance. If the billboard were to be moved south, it would be too close to an R district. The Board believes the request for a variance of 3.33 feet is reasonable under the circumstances and this is per the placement of both signs on page 7.6. In granting this variance the Board has found, by reasons there are extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structures and signs 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:

**COMM 50E & 265S NWC NE NW TH S185 E599.06 TO POB TH E392.98 NW325.70  
W72 S170 W236.56 S214.99 POB SEC 7 19 14 2.12ACS, CRESCENT HGTS ADDN,  
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. Tidwell recused himself and left the meeting at 2:10 P.M.**

**21401—Acura Neon, Inc.**

**Action Requested:**

Variance of required 200 foot setback from an R zoned district for an Electronic Message Center on an existing sign (Section 1221.C.2.c). **LOCATION:** 3130 South Harvard Avenue East **(CD 9)**

**Presentation:**

**Mir Khezri**, 1801 North Willow Avenue, Broken Arrow, OK; stated the application is a request for a variance to replace an existing mechanical marquee, on an existing Drug Warehouse sign, with a electronic message center. The sign meets all the requirements except for the distance from an R district, it is approximately 118 feet south of the closest residences and approximately 180 feet west of the closest residences. Drug Warehouse wants to be a good neighbor so as a compromise for the lack of the proper distance between the electronic message center and the residential area the electronic message center would be angled in a V shape. An electronic message center has a viewing angle of 140 degrees and to place it on an angle it take the light away from the residential area.

**Interested Parties:**

**Lynne Brady**, 3136 South Florence Place, Tulsa, OK; stated she opposes the request and disagrees with the applicants' statement regarding the angled sign. The existing fence is not adequate for screening because she can see the sign from her dining room. If the trees, that now exist between the sign and her street, were to be taken out or down the sign could definitely be seen by almost everyone in the neighborhood because it is very visible to the houses to the west. Ms. Brady stated that if Drug Warehouse truly wanted to be a good neighbor they would have an eight-foot fence installed around the parking lot on the west and south side to shield their business from the neighborhood.

**Steve Novick**, 3843 South Florence Place, Tulsa, OK; stating he is acting as the President of the Ranch Acres Homeowner's Association. The homeowner's association is opposing the construction of this proposed sign. Mr. Novick stated he appreciates the discussion of possibly angling the sign or the possibility of lowering it, but no amount of angling is going to solve the problem, particularly with the house immediately south of Drug Warehouse. As the sign exists it is almost fully on view to that house south of the

subject property. No lowering of the sign will solve the problems because the sign would almost have to be on the ground to avoid the light coming into the neighborhood. Virtually an identical request was before the Board of Adjustment in 2006, and since it was last considered and rejected unanimously by the Board, the Ranch Acres neighborhood has been added to the National Register of Historic Places as a historic neighborhood. Part of the homeowner's association's mission is to preserve the architectural and neighborhood integrity of the area to be consistent with the historic designation.

Ms. Stead stated that the Board recognizes true historic preservation but the historical significance is not a matter the Board can consider.

Mr. Novick stated that he was just providing it as an informational item. The principal deficit in this application is the same deficit from which it suffered in 2006. There has not been a shred of evidence from the applicant of any type of hardship to Drug Warehouse that is peculiar to their property that would be extraordinary. This proposal failed in 2006 for lack of hardship and it should fail today for the same reason.

**Robert Denton**, 3163 South Gary Place, Tulsa, OK; stated he has lived in the neighborhood since 1990. The only time he has not lived in the area is when he went to school in California. He is a patron of Drug Warehouse and they are nice to have in the community, but it is a residential area. In 2006 the Drug Warehouse representative stated, as designated in the 2006 minutes, that only one property to the south would actually have a view of the sign and that is not true. Mr. Denton presented a picture of the sign that was taken from his back porch in the afternoon hours and the sign is clearly visible over the six-foot fence. The current sign is back-illuminated through vinyl and it projects a fair amount of light. If there were an LED-lit electronic message center allowed, that light would increase because that is the whole point of LED, to increase light so the sign can be seen at a greater distance.

**Rebuttal:**

Mr. Khezri came forward and stated that the existing light is shedding more light into the neighborhood than the proposed LED electronic message center would. The proposed sign is a concentrated LED light, which means each pixel is housed in a square area so the farther away you get from the sign the lights start disappearing and once a 140 degree angle is achieved it is zero visibility. This type of sign would actually enhance the neighborhood.

Ms. Stead asked Mr. Khezri to state his hardship. Mr. Khezri stated that this store has approximately 350 feet of frontage on Harvard and is over 200 feet deep. The building is existing and the sign cannot be moved back to meet the requirements. The harsh Tulsa winters make it difficult to have the mechanical sign lettering manually changed and an electronic message center would alleviate that problem.

Mr. White asked Mr. Khezri about a dimension discrepancy on the drawings, because in one drawing the dimension from the bottom of the bottom sign to the top of the top sign

totals 13 feet. In another drawing the dimension for the total height of the sign is 16 feet, indicating three feet underneath the sign in question or where the LED electronic message center is proposed to be installed. Mr. Khezri stated that the drawing is wrong because the sign has an overall height of approximately 36 feet. The 16 feet should signify the overall height to the marquee area.

Mr. Henke stated that Mr. Khezri had previously brought up a point as to whether any of the neighbors would entertain discussion of the proposed sign, so maybe this application could be continued to allow for that discussion. Mr. Henke asked the people in the audience to raise their hand if they would be inclined to meet with Mr. Khezri and this case could be slated for a continuance. No one in the audience raised their hand. Mr. Henke told Mr. Khezri that it appears the audience was opposed to the sign, and based on testimony given today, no one has changed their opinion.

Mr. Khezri asked if the Board would consider approval if the light emitted by the sign was reduced with no flashing, no scrolling or anything.

Mr. Van De Wiele stated there are other pharmacies in Tulsa that use LED lights but they are installed on ground signs, and he asked Mr. Khezri if a ground sign is something he has discussed with Drug Warehouse. Mr. Khezri stated that is a concept that could be entertained.

Mr. Henke stated that the first thing this case needs is a hardship. This case was denied in 2006 because there was no hardship, and there has not been a valid hardship heard today.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 3-1-1 (Henke, Stead, White "aye"; Van De Wiele "nay"; Tidwell "abstaining"; none absent) to **DENY** the request for a Variance of required 200 foot setback from an R zoned district for an Electronic Message Center on an existing sign (Section 1221.C.2.c) for the lack of a hardship; for the following property:

**S170 N433 BLK 1, S.187'BK 1, RANCH ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. Tidwell re-entered the meeting at 2:45 P.M.**

**Mr. White recused himself and left the meeting at 2:45 P.M.**

**21402—Steve Olsen**

**Action Requested:**

Variance of building setback from centerline of Atlanta Street from 50 feet to 35 feet (Section 703, Table 2). **LOCATION:** 2448 East Admiral Boulevard South, 2444 East Admiral Boulevard South, 2438 East Admiral Boulevard South, 2436 East Admiral Boulevard South **(CD 4)**

**Presentation:**

**Steve Olsen**, 3303-A South Harvard, Tulsa, OK; stated he was before the Board earlier in the year and was approved for a setback for this same property. There was dimensional error on the site plan and the project needs to be five feet closer to the centerline of Atlanta, thus this case is before the Board again today.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 4-0-1 (Henke, Stead, Tidwell, Van De Wiele "aye"; no "nays"; White "abstaining"; none absent) to **APPROVE** the request for a Variance of building setback from centerline of Atlanta Street from 50 feet to 35 feet (Section 703, Table 2). This applicant has presented other material pertaining to the rebuilding of this church/school property and errors were shown on the site plan. This approval will be subject to the site plan on page 9.6. This property was developed in the mid-1920s and are small compared to those being developed today. In granting this variance the Board has found that there are extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**LT 1 BLK 5, LT 2 BLK 5, LT 3 BLK 5, LT 4 BLK 5, EAST HIGHLAND ADDN RES B1,  
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. White re-entered the meeting at 2:49 P.M.**

**21403—Burl Higgins**

**Action Requested:**

Special Exception to permit a manufactured home (Use Unit 9) in an RM-2 district (Section 401); Special Exception to waive one year time limit and make permanent (Section 404.E.1). **LOCATION:** 898 South 63<sup>rd</sup> Avenue West **(CD 1)**

**Presentation:**

**Craig Higgins**, 945 North Country Meadow Lane, Skiatook, OK; stated he is the son of Burl Higgins and is here to present his father's case.

Ms. Stead asked Mr. Higgins if he had read the 1985 special exception that this property had been granted, because it says "special exception to permit continued use of a mobile home" but it does not stipulate a time limit. Mr. Higgins stated there is an issue with the lots, and he thinks the mobile home being referred to is one lot north of his father's property and that mobile home is still there. When he went into INCOG to apply for these special exceptions it was discovered on the site map that his father's 1933 deed shows lots 12 and 13. The County shows lots 13 and 14 so he has to visit the County Assessor's office to attempt to straighten out the deed. Ms. Stead asked Mr. Higgins to state which lot he was going to have the mobile home installed on. Mr. Higgins stated it would be Lot 14, Block 1.

Ms. Stead asked Mr. Higgins what type of manufactured home was going to be installed on the property. Mr. Higgins stated it is a 1984 used mobile home built by Jay. The house that his father is currently living in now is a two-room house that was built in the 1920s and is dilapidated. Once his father is moved out of the house, it 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"; none absent) to **APPROVE** the request for a Special Exception to permit a manufactured home (Use Unit 9) in an RM-2 district (Section 401); Special Exception to waive one-year time limit and limit it to ten years from today's date of March 27, 2012 (Section 404.E.1). This is in accordance with the site plan shown on page 10.8. The mobile home moved onto the property shall be

skirted, tied down, and have an asphalt or concrete parking/driveway with two parking spaces which may be stacked. In granting these special exceptions the Board has found that these 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 14 BLK 1, LAWNWOOD ADDN, TRIMBLE SUB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21404—Wallace Engineering**

**Action Requested:**

Special Exception to permit a Church in an AG District (Section 301, Table 1);  
Variance to permit parking in the required front yard (Section 1205.B.1.b).

**LOCATION:** SE/c West 81<sup>st</sup> Street and South Maybelle Avenue **(CD 2)**

**Presentation:**

**Jim Beach**, 200 East Brady, Tulsa, OK; Mr. Beach stated he is representing Life Church for this request. Mr. Beach handed the Board a revised site plan and explained that the only change to the site plan was in the number of parking spaces. The original site plan had the number of parking spaces required by code and the new site plan parking spaces decreased due to the expansion of the building. The total number of parking spaces the church wants is 438 spaces. This property is near an area of Tulsa that growing rapidly. The variance request for the parking is due to a floodplain next to the church. The building will be a foot above the floodplain. To the south and west on the property is a detention pond that is required. To the north and east on the property is compensatory storage which takes up and stores the stormwater that ordinarily be in the floodplain but it is being displaced by the development.

**Mr. Henke left the meeting at 2:56 P.M.**

Mr. Van De Wiele asked Mr. Beach what the difference is between a detention pond and compensatory storage. Mr. Beach stated that a detention ponds retains or holds the stormwater runoff and allows it to meter out off the property into the natural drainage or storm sewer at the same rate as it did before the development. The compensatory storage is a mitigation of filling the floodplain.

Those factors create the hardship for the variance. The church needs to utilize all the property possible for the parking. The variance requests parking be permitted in the required front yard, and that required front yard is 35 feet from 81<sup>st</sup> Street. In all their experience Life Church knows exactly how many parking spaces they need in order to



accommodate the congregation in their various services. To obtain the 438 spaces on the site and accommodate all the drainage characteristics, the church needs to be able to build closer to 81<sup>st</sup> Street which will be consistent with all the other commercial-intense development in the area.

**Mr. Henke re-entered the meeting at 2:59 P.M.**

**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"; none absent) to **APPROVE** the request for a Special Exception to permit a Church in an AG District (Section 301, Table 1); Variance to permit parking in the required front yard (Section 1205.B.1.b). The Board finds that the hardship for the variance is the fact that a significant portion of this property is in a floodplain, and the church structure has to be located in such a position to be clear of that floodplain necessitating the required parking to actually extend into the front yard on the north side to obtain the necessary amount of spaces. This will be subject per conceptual plan submitted today as indicated in the lower left corner as March 27, 2012; this is subject to a plat. No lighting was depicted on the plan but all lighting shall be down and away from the residential neighborhood. 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. In granting the Special Exception it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**A tract of land in the North Half of the Northeast Quarter (N/2 NE/4) of Section Fourteen (14), Township Eighteen (18) North, Range Twelve (12) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, more particularly described as follows, to-wit: Beginning at a point 2092.0 feet West of the Northeast Corner of Section 14, Township 18 North, Range 12 East; thence South 436 feet to a point, thence West 269.75 feet to a point; thence North 436 feet to a point; thence East 269.75 feet to**

a Point and Place of Beginning. AND Beginning 2361.75 feet West of the Northeast Corner of Section Fourteen (14), Township Eighteen (18) North, Range Twelve (12) East of the Indian Base and Meridian, thence South 436 feet; thence West 269.75 feet; thence North 436 feet; thence East 269.75 feet to the place of beginning, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof. AND A tract of land situated in the South Half of the North Two-Thirds (S/2 N2/3) divided equally as to Area, of the North Half of the Northeast Quarter (N/2 NE/4) of Section Fourteen (14), Township Eighteen (18) North, Range Twelve (12) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, more particularly described as follows, to-wit: Beginning at a Point on the West line of the NE/4 442.07 feet South of a 3/4" iron pin marking the Northwest Corner of the NE/4 of Section 14; thence East along the North line of the South Half of the North Two-Thirds (S/2 N2/3) a distance of 646.70 feet; thence South paralleling the West line of the NE/4 a distance of 202.07 feet; thence West along a line parallel with the North line of the South Half of the North Two-Thirds (S/2 N2/3) a distance of 646.70 feet to a point on the West line of the NE/4; thence North along said West line a distance of 202.07 feet to the Point of Beginning, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

#### **21405—Rob Walker**

##### **Action Requested:**

Variance from the requirement that lighting used for off-street parking adjacent to an R district have the light producing element be shielded from view for a person standing in an R district (Section 1303.C). **LOCATION:** 5124 South Peoria Avenue East (CD 9)

##### **Presentation:**

**Rob Walker**, Architect, 2229 – 1<sup>st</sup> Avenue South, Suite 110, Birmingham, Alabama 35233; he presented the Board with some more exhibits and stated he represents Virginia College. Virginia College is a career college and is an 800 student campus. At least 400 of those students will attend classes from 3:00 P.M. to 10:00 P.M., so night-time safety and security is a major concern for Virginia College. The classes are held Monday through Friday, 8:00 A.M. until 10:00 P.M., and the staff stays for approximately one hour longer. Classes are held on Saturday from 8:00 A.M. to 3:00 P.M. with the staff on campus until 4:00 P.M. Plans with photometric plans attached were submitted to the Permit Office and they were approved. Mr. Walker went through the building process and everything came down to the Certificate of Occupancy period. At that time the lighting inspector requested that more shielding be added to the current lights that had been approved through the permit process, and without doing this the Certificate of Occupancy could not be obtained. Custom-made shields were made for the lights.

Ms. Stead asked Mr. Walker if he meant the lights had been installed on the subject property. Mr. Walker stated that the lights had been already been installed but the

Certificate of Occupancy could not be issued until the custom-made shields were also installed. Mr. Walker went on to say that the code is vague but states "shielding of such lights shall be designed to prevent the light producing element of the light fixture being visible to a person standing in an R district". The lighting on Exhibit A is what was approved during the permit process, and the lighting is a standed light fixture with full cutoff shields that is used all around the country. Exhibit B represents what steps were necessary to obtain the Certificate of Occupancy.

Mr. White asked Mr. Walker if the shield-criteria were just for the design or just for the fact that the light did not shine on a person standing in an R district. Mr. Walker stated that three versions of the shield have been designed and tested because the first two were not good enough. The third generation shield is 20 inches deep which seems to be excessive. As the Board can see by the picture in their packet, there are zero foot candles in part of the parking lot so a security guard has been hired to escort students or staff to their cars. Mr. Walker stated that he has worked with the City on modifying the shield design but there are still dark areas in the parking lot. What Mr. Walker is requesting is to be able to go back to the light fixture that was originally approved to be installed in the parking lot, which gives the proper foot candles for safety concerns. There will still be cutoff shields to throw the light away from the residential areas, but he thinks the requirements are excessive.

Ms. Stead asked Mr. Walker how tall the poles were that hold the light fixtures. Mr. Walker stated the original poles were 40 feet tall but they have been removed and 30 foot tall poles were installed on the right side of the building with 20 foot tall poles installed on the back side of the building. Ms. Stead asked Mr. Walker if he had considered shorter poles because there didn't seem to be this problem with other parking lots in Tulsa. Mr. Walker stated he could install shorter poles with six more lights being installed to achieve the same all-over lighting pattern, but that seems to be excessive. At the beginning of the job it would have easy to change the scope to accommodate the six additional poles but at the end of the job it is unreasonable.

Mr. Van De Wiele asked Mr. Walker if students parked in the rear of the building. Mr. Walker stated that staff parks in the rear of the building and there is also an outdoor lounge to be considered.

**Mr. Henke left the meeting at 3:21 P.M.**

Mr. Alberty stated that the issue of the matter is the height of the poles. Typically that has not been a problem. This is the first time he has heard anyone come before the Board and ask for relief in the matter. There have been as low as 12 foot poles installed, and it does require the installation of more poles. That is why Wal-Mart has the 30 foot or 40 poles because they can achieve the necessary security lighting with

fewer poles and higher illumination. Mr. Alberty stated that he is not sure what Mr. Walker is requesting would meet the code requirements; that is the issue. Mr. Walker stated that the fixture that had been submitted has full cutoff shields to it, but what was requested is an additional custom-made shield for each fixture that does not come with the fixture. A laborer in a fab shop has to manufacture the shield and slip it onto each fixture, so it is not a standard product.

Mr. White asked Mr. Walker if the inspector told him, after the installation of the original pole, that the light was indeed going into the R district. Mr. Walker said the inspector came out and looked at the light and the inspector said he could see the element the light needed more shielding, so a six-inch shield was added. The inspector came out and stated that he could still see the lighting element, so the shield was made larger. Mr. Walker stated that the parking lot lights could be set on a schedule to go off at a certain time of night after the parking lot was cleared of all student and/or staff cars around 11:00 P.M.

Ms. Stead suggested this case be continued because she does not want to see the Board suggest something the city inspector will not approve. If this were to be continued the Board could request the inspector attend the next meeting so a clear definition of the requirements could be given to the Board, because this Board approves parking lots all over Tulsa and it is specified that the lighting be down and away from abutting properties. This is the first time a problem like this has come before the Board. Mr. Walker told the Board that he had contracted a local electrical sub-contractor from Tulsa and he did not understand the city inspector's disapproval.

Mr. Swiney encouraged the continuance of this case to allow the city inspector to attend the meeting to explain his standing.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **STEAD**, the Board voted 4-0-0 (Stead, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke absent) to **CONTINUE** the request for a **Variance** from the requirement that lighting used for off-street parking adjacent to an R district have the light-producing element be shielded from view for a person standing in an R district (Section 1303.C) to the meeting of April 10, 2012 and that staff request the lighting inspector involved to attend the meeting; for the following property:

**Lot One (1), Block One (1), JEN-ASH PARK, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof. LESS AND EXCEPT: A strip, piece of parcel of land lying in part of Lot One (1), Block One (1), JEN-ASH PARK, an Addition to the City of Tulsa, Tulsa County, State of**

Oklahoma, according to the Recorded Plat No. 4755, being more particularly described as follows, to-wit: BEGINNING at a point where the Easterly line of said Lot One (1) intersects the South line of Lot Two (2) of said Addition; thence N 77°35'33" W along said South line of Lot Two (2), also being the North line of Lot One (1) a distance of 164.35 feet; thence N 86°01'00" W a distance of 95.05 feet to the Southwest corner of said Lot Two (2), also being a point on the Westerly line of said Lot One (1); thence S 01°02'21" E along said Westerly line a distance of 73.45 feet; thence S 80°31'55" E a distance of 258.95 feet to a point on the Easterly line of said Lot One (1); thence N 01°05'52" W along said Easterly line a distance of 74.13 feet to the POINT OF BEGINNING. AND LESS AND EXCEPT: BEGINNING at a Northeast corner of said Lot One (1), also being a point on the South line of Lot Three (3) of said Addition; thence S 88°54'42" W along the North line of said Lot One (1) and the South line of said Lot Three (3) a distance of 25.62 feet; thence S 15°07'35" E a distance of 41.23 feet to a point on the South line of said Lot One (1) and the North line of Lot Four (4) of said Addition; thence N 88°54'42" E along said South line of Lot One (1) and the North line of said Lot Four (4) a distance of 15.63 feet to point on the East line of said Lot One (1); thence N 01°05'52" W along said East line a distance of 40.00 feet to the POINT OF BEGINNING, 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**

Mr. White asked staff when new aerial photographs were expected to be updated because the aerial photographs available are two years old, and he knows the County has been flown in the last two years. Mr. Alberty stated the updates are under way and the updates should be ready in a few months.

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There being no further business, the meeting adjourned at 3:31 p.m.

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

4/10/12

Frank X. [Signature]

Chair