

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1075
Tuesday, July 24, 2012, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Henke, Chair Tidwell, Secretary White, Vice Chair	Stead Van De Wiele	Back Sparger	VanValkenburgh, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, July 19, 2012, at 9:52 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.

Ms. Back read the rules and procedures for the Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **TIDWELL**, the Board voted 3-0-0 (Henke, Tidwell, White "aye"; no "nays"; no "abstentions"; Stead, Van De Wiele absent) to **APPROVE** the **Minutes** of the July 10, 2012 Board of Adjustment meeting (No. 1074).

Mr. Henke explained to the applicants that there were only three board members present at this meeting due to the resignation of one member, and Mr. Van De Wiele's absence is due to business. If an applicant would like to postpone his or her hearing until the next meeting he or she could do so. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from the three board members to constitute a majority. Mr. Henke asked the applicants if they understood and asked the applicants if they would like to continue their case and if so to please raise their hand and the Board will entertain any continuance request. No one raised their hand, the Board of Adjustment proceeded with today's hearing.

UNFINISHED BUSINESS

21448—Sisemore, Weisz & Associates

Action Requested:

Special Exception to allow Youth Sanctuary and multi-purpose youth center in an OL district (Section 601); Variance of the one-story building height in an OL district to allow a 2-story youth center building with a maximum building height of 35 feet (Section 603); Variance to waive the screening fence requirement along the east, west, and south property lines on subject site (Section 1303.E); Special Exception to allow use of up to 30 parking stalls on an off-site lot of record (Section 1301.D); Special Exception to allow use of up to 30 parking stalls in an RS-3 district (principle church parking lot) (Section 401); Special Exception to allow a 6 foot (cyclone) fence in a front yard for the easterly 220 feet of the site (Section 210.B). **LOCATION:** 1800 West 51st Street **(CD 2)**

Presentation:

Darin Ackerman, Sisemore, Weisz & Associates, 6111 East 32nd Place, Tulsa, OK; stated he represents Carbondale Church. The building proposed will be used as a youth sanctuary which will be used primarily on Wednesdays and perhaps Sunday mornings. The parking spaces that are proposed will probably not be needed as most of the patrons of the building will be young and not of driving age.

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, Tidwell, White “aye”; no “nays”; no “abstentions”; Stead, Van De Wiele absent) to **APPROVE** the request for a Special Exception to allow Youth Sanctuary and multi-purpose youth center in an OL district (Section 601); Variance of the one-story building height in an OL district to allow a 2-story youth center building with a maximum building height of 35 feet (Section 603); Variance to waive the screening fence requirement along the east, west, and south property lines on subject site (Section 1303.E); Special Exception to allow use of up to 30 parking stalls on an off-site lot of record (Section 1301.D); Special Exception to allow use of up to 30 parking stalls in an RS-3 district (principle church parking lot) (Section 401); Special Exception to allow a 6 foot (cyclone) fence in a front yard for the easterly 220 feet of the site (Section 210.B). Regarding the variances, this particular property is located between 51st Street and I-44, on the north and south respectively, is bordered on the east side by the on-ramp to I-44 from 51st Street, and is bordered on the west

side by the Library. The two-story height of the proposed building will be compatible with the surrounding buildings. In regards to the variance for the screening requirement, the east, west, and south property lines are bordered by streets on the north, south and east with the west being the library property itself. This approval will be per conceptual plan 2.9, 2.10 and 2.11. Finding the Special Exceptions 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. 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, CARBONDALE ASSEMBLY OF GOD CHURCH PRT RSB RES A HILL HAVEN ADD, HILL HAVEN ADDN, HILL HAVEN SECOND ADDN, MAY TERRACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

21450—Herbert Hawkins

Action Requested:

Appeal the determination of an Administrative Official, vehicle is not used commercially (Section 402). **LOCATION:** 11604 East 15th Street (CD 6)

Presentation:

This case has been withdrawn, because the vehicle in question appears to be a 1-Ton truck parked on the driveway without commercial signage; no relief is needed. The violation has been removed by the City.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board Action required; for the following property:

LT 12 BLK 1, CHEROKEE VILLAGE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21451—Claude Neon Federal Signs

Action Requested:

Variance of the requirement that illumination of a sign shall be by constant light to permit an EMC on an existing sign for a school in the RM-1 Districts (Section 402.B.4); Variance from the 200 foot separation from an R District required for a digital sign (Section 1221.C.2.c). **LOCATION:** 624 East Oklahoma Place North (CD 1)

Presentation:

Gary Larsen, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, OK; stated he represents Carver Middle School. The school would like to upgrade to the current technology and would like to have an electronic message center on the school property. The sign will front on the Greenwood side of the school.

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, Tidwell, White “aye”; no “nays”; no “abstentions”; Stead, Van De Wiele absent) to **APPROVE** the request for a Variance of the requirement that illumination of a sign shall be by constant light to permit an EMC on an existing sign for a school in the RM-1 Districts (Section 402.B.4); Variance from the 200 foot separation from an R District required for a digital sign (Section 1221.C.2.c). Finding that the light from the sign will not be shining onto the residences themselves. The Board has found that the sign will be beneficial for transmitting information, safety issues, weather conditions, school closings, school events, etc., which has been the norm for Tulsa schools for sometime. This approval is subject to the conditions that the sign will be operated during the hours no longer than 7:00 A.M. to 10:00 P.M. There will be no blinking, twinkling, flashing, rolling, or animation. Scrolling will be only from right to left. This approval will be per conceptual plan on page 4.8. 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:

ALL BLKS 1 & 4 LESS N20 LTS 1 THRU 12 BLK 1 & ALL BLKS 3 & 4 LESS N20 LTS 7 THRU 12 BLK 4 COOLIDGE ADDN RES & VAC ALLEYS & STREETS ADJ THERETO, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

17108-A—Jack Bubenik – City of Tulsa Parks

Action Requested:

Modification to previously approved site plan (BOA-17108) to permit demolition of dilapidated structures and construction of new facilities (BC Franklin Park).

LOCATION: 1818 East Virgin Avenue (CD 1)

Ms. Back stated that the demolition of the structures on site is not before the Board for approval. It was mentioned, as in all the park cases recently before the Board, due to the fact that the proposed new amenities are to be constructed in the same place as the existing structures. The previous site plan, BOA-17108, was approved per plan not per conceptual plan. It is also worth mentioning that B. C. Franklin Park lies within a 100-year flood plain preventing the proposed new amenities from being constructed in a different area on the same parcel of park land.

Mr. Henke asked Ms. Back to confirm that the demolition was not before the Board today. Ms. Back agreed that it was not. The demolition decision was made many years ago when a previous mayor pulled park funding and made the decision to start closing parks due to the lack of funding.

Ms. Back stated that she takes full responsibility for the advertising of this case. It is always decided to inform the neighborhood as best as possible. She takes responsibility for the verbiage being slightly misleading. If the advertisement had stated the construction of new facilities the call volume would have been prohibitive because people would want to know what was to become of the community center and the pool, when that was a decision that has already been made. It was then decided to list the demolition of the dilapidated structures so the neighborhood would know the existing structures are to be removed, and the new amenities to be added to the site. The advertisement was not meant to be misleading it was meant to inform the neighborhood. If the Parks Department has structures that are to be demolished, and that is the only work to be performed on the park property, they would not need to be before the Board of Adjustment. The Parks Department would just file for the necessary permit and perform the work.

Mr. Henke stated that with the large number of interested parties present, both sides will be limited to 30 minutes each, as is typically done at meetings attended by a large number of people.

Presentation:

Jack Bubenik, City of Tulsa Parks Department, 175 East 2nd Street, Tulsa, OK; stated the City is before the Board of Adjustment to ask for approval of proposed improvements at B. C. Franklin Park. B. C. Franklin Park is not the only park that is to have dilapidated structures demolished to achieve the vision and objective of the improved master plan. The City will be before the Board of Adjustment again in regards to other parks. The Board has already heard cases for Turner, Manion, and Springdale Parks.

Mr. Henke asked Mr. Bubenik if the City would be coming before the Board for modifications to their site plans or would it be to demolish structures. Mr. Bubenik stated that it would be to modify existing site plans that had been previously approved.

There is \$800,000.00 available today for funded improvements; \$470,000.00 is from sales tax monies and \$330,000.00 from a trust donation. The funded improvements include a multi-use sports court, a water playground, a large pavilion, a water fountain, and miscellaneous benches. There are several proposed unfunded improvements, i.e., tennis courts, trail system, and additional landscaping which will be constructed as the funds become available.

Interested Parties:

Wilma Harding, 2229 North Wheeling, Tulsa, OK; stated she broke ground for the B. C. Franklin Park and raised her family there. The neighborhood has done everything they could to keep the park open. The park started deteriorating but nothing was done by the City. Taxes have been paid for the maintenance of the park so she would like to see the park refurbished.

Anthony L. Marshall, 1807 East Young Street, Tulsa, OK; stated he is a teacher at Washington High School and he is familiar with the needs of the area. He would ask the Board not approve the City's request to modify B. C. Franklin Park until such time as the City of Tulsa Parks Department has created a Task Force that will study what modifications need to be made after the demolition has taken place. Furthermore, have the Task Force bring the recommendations to the Parks Department, then have the Parks Department come before the Board of Adjustment with a complete recommendation from the community as a whole. If the Board approves the modifications as submitted today by the Parks Department, without recommendations from the community, there will be an unnecessary hardship to the community and it will be a substantial detriment to the public good.

Mary Williams, 509 East 55th Place North, Tulsa, OK; stated she would like to recommend a Task Force be established on the basis of understanding the protocol of reserving the heart and soul of a community based on its history and heritage. B. C. Franklin Park does represent the community's history and heritage. She was part of the train depot, Union Depot, restoration. She observed the meticulous nature of the builders and the architects making sure that certain bricks and designs were preserved for historical reasons. For the culture that represents the B. C. Franklin Park

community, they would recommend that this site be looked at based on historical preservation and the future heritage. This type of preservation is certainly a protocol the City follows in many instances. The community pleads with the Board of Adjustment to honor the heritage and the hope of a posterity that is yet to come. This type of demolition not only destroys a community but it destroys the soul of the people. The residents want the community to grow together as one, so B. C. Franklin Park neighbors would like all the Tulsans in the City to consider this detrimental to Tulsans heritage.

James Johnson, Sr., 741 East 42nd Place North, Tulsa, OK; stated he has also brought his son, James Johnson, Jr., that would like to say a few words to the Board. Mr. Johnson, Sr. proceeded to say that he has lived in Tulsa for 50 years and he sees patterns happening in the City. He drove his son to B. C. Franklin Park so he could see what the park looks like today before he speaks to the Board. Why does the park look like it does today, when funds were available in 2002 for this park? Which director mishandled the monies that were to be allocated to the park? There is no reason North Tulsa should look like Iraq. Nowhere in America should there be areas that look like third world countries. North Tulsans no longer want broken promises or broken dreams. Mr. Johnson, Sr. stated that he is not in favor of the proposed modifications and amenities, because the proposed amenities can only be used three months out of the year. If this City can save a kangaroo, this park and all other parks listed to be demolished or modified are worth saving.

James Johnson, Jr., 741 East 42nd Place North, Tulsa, OK; read a note that he had written to the Board of Adjustment. In the note Mr. Johnson, Jr. wanted to know why South Tulsa did not want North Tulsa children to have any fun. He wanted to know why he had to have his father drive him to 121st Street South and Yale Avenue when B. C. Franklin Park is closer to his home.

Joyce G. Smith-Williams, 14 East Woodrow Place, Tulsa, OK; stated she is the Council President at Lacy Park. She does not want the Board to approve the proposed modifications. As a retired professional social worker she sees the need for the neighborhood to have a building. There is no way to facilitate programming when there is no structure.

Jane Malone, 4735 North Detroit Avenue, Tulsa, OK; stated she is the President of Chamberlain Area Neighbors. There are several questions the community needs answered, i.e., what monies were allocated for the park, who made the recommendation to close the park, and who made the recommendation to demolish the park's existing structures. B. C. Franklin Park is a proud reminder of our recognized black leader during Tulsa's struggles, the Jim Crow era. She knows a young man that used to work at B. C. Franklin from 1985 to 1990 and during his time there, Mayor Crawford closed the swimming pool and the B. C. Franklin building, as well as others throughout North Tulsa for budget purposes. That was a mistake then, because many youth attended the center day, night and weekends. In some cases the youth had nowhere else to go. Fortunately, the center was re-opened and the youth returned. During this same time James "Quick" Tillis, a famous boxer and actor, donated many

hours to the center by showing youth the fundamentals of boxing while mentoring them on family values and the importance of an education. Drew Pearson performed his internship at the center, under the guidance of Robert Baker. A few people that have frequented the center are Wayman Tisdale, Lee Mayberry, John Starks, NBA players; the Lockett brothers, R. W. McQuarters, Robert Meacham, NFL players. The proposed plan is not what the neighbors want, it will be similar to what was designed at Chamberlain Recreation Center. There was a water park proposed for Chamberlain and it turned out to be a tinkle pad. A water park is seasonal only; it cannot be used during inclement weather. What can be done for the children is never wasted. Senior citizens can use the recreation center during the day, during the evening, or whenever but the facility is needed.

Patricia Gaines, 1744 East Woodrow Street, Tulsa, OK; stated she opposes the modifications proposed for B. C. Franklin Park. There is a park, Wheeling Park, directly across the street from her house and there is a splash pad. There used to be playground equipment in the park but it is no longer there, so why would the people believe nice things will happen in B. C. Franklin Park when the City is doing nothing with Wheeling Park. The splash pad at Wheeling Park does not work most of the time, so won't there be the same problem at B. C. Franklin with the proposed splash pad. She operates a child care facility and she cannot take the children to Wheeling Park when it is hot because there is nowhere to get the children out of the heat, and that would be the same situation at B. C. Franklin Park. If the children have no place to go into to get out of the heat no one will visit the park; that does not benefit the children. A splash pad is mainly for younger children, ages three to maybe ten. What about the older children and the senior citizens?

Virginia Goodwin, 762 North Denver, Tulsa, OK; stated she does not understand why this case is before the Board of Adjustment, especially after the audience was told there was a mistake made. She believes there has been a lot of deception and untruths from the Parks Department. There are many people in this room that do not believe this process is fair, and that this should not be before the Board of Adjustment. For the Parks Department to announce to this audience that the demolition of B. C. Franklin has already been approved by a former mayor, she would like to know who that mayor was because she believes the City is in violation of the law. The neighborhood would like for the Parks Department to carefully consider what is being proposed, because the destruction of that building would be in violation of the law. There have been tax dollars for a number of decades that have been allocated for B. C. Franklin Park that did not make it to the B. C. Franklin Park for its renovation. The City acknowledges there is \$800,000.00 and the area residents think it is more than that. This matter has been brought before the Board of Adjustment because two years ago they were before the City Council; the City Council told them no and told them to return when times are better. Sales tax revenue is up, because the City is increasing renovations at Whiteside Park and Cousins Park. She and the area residents would like for the Board not to consider this modification. This whole process is corrupt and this area deserves better. When city parks are killed a community is killed. The City allowed the building at B. C. Franklin Park to fall into a state of disrepair, and now they are allowed to be the judge

and jury of their own case. There is something wrong with that concept. The area residents are asking for due process and to be treated the same as other areas of Tulsa.

Rev. James McLaughlin, P. O. Box 27908 (647 East 45th Place North), Tulsa, OK; stated he is the Senior Pastor of St. Paul African Methodist Episcopal Church, and he is the new kid on the block. He opposes the proposal for B. C. Franklin Park. He believes there should be a task force formed to study the situation. He had the opportunity to listen to the present Mayor, Mayor Dewey Bartlett, on a public broadcasting station, and he was asked why the north side of Tulsa is different from the south side of Tulsa, referencing the parks. His answer was, "Just have faith in us and we will do the parks." Rev. McLaughlin serves as the Social Action Director for the State of Oklahoma and lives in the community being discussed. He represents thousands of A.M.E.'s across the state and they are part of this state and they want to be part of the development. Get beyond dealing with the past, where does Tulsa go from here. Decisions are made and then brought to the community, but the community needs to be at the table when the decisions are made. He would ask the Board to consider what Mayor Bartlett has said before making their final decision.

James Alexander, 431 East Ute Street, Tulsa, OK; stated he opposes the proposal for B. C. Franklin Park because he feels it is a downgrade to the area. Any time something is taken away it is a downgrade. This park is a federal entitlement area set up by the federal government in the 1960s. Every year, at this time, monies come in for the community. That community exists from Archer to Apache, Osage County line and Highway 75. Monies come in for the community every year, since 1969. This money is to be available to the community for everything it needs for improvement. The people that live in an area are supposed to be able to have a voice for what happens in their area. The community should plan and the City should react.

Rev. Warren Blakely, 2217 North Peoria, Tulsa, OK; stated he is the President of the local branch of the N.A.A.C.P. and he is here to echo the sentiments of the community. He would ask the Board of Adjustment to vote no on these modifications because they do not address the needs of the community. The N.A.A.C.P. reflects the will of the community, and the community will not be best served by having a splash pad or port-a-potties. The community needs a facility for the children and the seniors.

Mr. Henke stated that the 30 minute time allotment has expired. He asked if there was anyone from the neighborhood in favor of the proposed changes for B. C. Franklin Park. No one in the audience raised a hand. Mr. Henke then asked how many more wanted to speak, and four hands were raised; a lady stated she would yield. Mr. Henke then allowed the remaining three people to come forward, one at a time, to speak.

Joi McCondichie, 6521 East 27th Place (2311 North Wheeling), Tulsa, OK; stated her Grandfather worked to build this park. The last four generations have been fighting for the same land and building that has been theirs. To implement a modification is really not a modification, because a modification is something that is to be changed; tearing

down and building up. So the word modification is not correct. In order to build the proposed amenities a building must be torn down, and that is the problem. The community does not need the building to be demolished. She has attended City Council meetings since January, and believes this case should not be before the Board of Adjustment. This meeting is a legal loophole to tear the building down and proceed; this community cannot absorb another modification.

Thomasene Washington, 2181 North Hartford Avenue, Tulsa, OK; stated that B. C. Franklin Park is vital to the neighborhood. Where is W.I.N., Working In Neighborhoods? They have not been in the neighborhood to work. The neighborhood wants their park. The third penny sales tax is our tax dollars. It is city tax dollars that is to be used for a community center for social neighborhood activities, i.e., arts and crafts, family activities, etc. Let the neighborhood adopt the park. This park plays a vital part in the community and to close the park would be detrimental to the neighborhood.

Ali Canada, 5155 South 108th East Avenue, Tulsa, OK; stated he is from the national office of the N.A.A.C.P. He asked the Board if a park was proposed to be built on the south side of Tulsa. Mr. Henke stated that this is the Board of Adjustment, a zoning board. Mr. Canada asked Mr. Henke where he could go to find the information he is seeking. Mr. Henke referred him to the Parks Department within City Hall.

Rebuttal:

Dale McNamara, Park Board Chairman, 1940 South Florence Place, Tulsa, OK; stated she appreciates the audience's patience and the audience's attention. She has attended public neighborhood meetings to address B. C. Franklin Park. She has attended nine other meetings in regards to nine other parks throughout the city. The impression of what she has heard today is that no one has had a chance to have any input. She has been on the park board since 2000, and when things were difficult in Tulsa, there was no staff but they did not sit idle. The Park Board started a Master Plan and it was in conjunction with PLANiTULSA. Notices were sent out every time there was a meeting for anything within the City. The meetings were advertised in the newspaper and on television inviting the public to participate in the planning of Tulsa. The Park Board knew they did not have funding but they knew they could make an improvement. All through the entire process, which has been over three years, there has been hardly anybody from the north side of Tulsa participating.

Mr. Henke asked Ms. McNamara if she could explain how there was not one person from the neighborhood present in support of the proposed modifications. Ms. McNamara stated it is because the neighborhood is not in favor of the modifications. Mr. Henke asked Ms. McNamara if B. C. Franklin Park would be utilized by the neighborhood. Ms. McNamara stated that, yes it would be utilized by the neighborhood. The City is not closing down the park. The City is taking down a building, but the demolition of that building has nothing to do with today. The Park Board fully supports the planned amenities for B. C. Franklin Park, and those amenities are a water playground, a sports park and a pavilion. Due to funding limitations the Parks Department is moving to a self-directed activity park, where people can use the park

without needing operational funding for staff. Today the Parks Department is requesting approval for the amenities to be placed in B. C. Franklin Park as its appropriate use.

Jack Bubenik came forward to address some of the issues that were brought forth by the protestants. The building in B. C. Franklin Park has been closed since 2002, ten years. It is beyond repair. The City has looked at the building and the pool in a very critical way. It will cost 1.6 million dollars in today's money to bring the building up to code and appropriate standard. There is \$800,000.00 available. The City has gone to the neighborhood three times in a published, advertised meeting. Two of the meetings had very few people attend. One of the meetings there was a very large group of people in attendance. The gist of the meeting presented the people with the budget, i.e., this is a pallet of items proposed, such as a water playground which is more than a splash pad, a shelter, and many other amenities. What the City heard is that the building is not coming down, the pool is not going to go away, so "we", meaning the neighborhood residents, are not going to offer any solutions or input on design. What was done, as a department, is look at the rest of the City of Tulsa. The department knows what is successful in the City. The department understands children's wants; they understand the need for shade. In many parks the city is building large pavilions with seating, water fountains, and landscape that one day will provide a lot of shade.

Mr. Henke stated that unfortunately the Board has heard from many people today that are completely against the City's proposed plans. How does the Parks Department respond to that? Mr. Bubenik stated that he, as a Parks Department representative, did not know how to respond to that. It would be a shame if the City did not do something. There is a very little amount of money. The City cannot save the building. The City cannot save the pool. The \$800,000.00 is not going to build a building. If that money could build a building there is no money to staff it.

Mr. Henke stated that the Board understands that and that there have been three meetings with the neighborhood, but there should be countless people from the neighborhood enthusiastic about the proposed plans. Mr. Bubenik stated that if the Board denied today's request they could go back to the neighborhood to talk, to hear some positive input on what the community needs and what they desire, but nothing is going to change. The building is still coming down. The pool is still going to disappear. That is from the current administration.

Mr. Henke stated that is not what people want but it is the reality of the situation, and that is between the Parks Department and the citizens of Tulsa. Mr. Bubenik agreed with Mr. Henke.

Lucy Dolman, Parks Department Director, City of Tulsa, 175 East 2nd Street, Tulsa, OK; stated this is an awkward place for a Park Director to be. The people in the department love parks, love the green space, like activities, but the problem is money. There is no money and have not had any money or support for many years due to budget cuts. The department understands that when the citizens are asked to make a choice between fire and police or the Parks Department, the citizens are going to

choose fire and police. The department looked at the Master Plan through the City as a whole. The department had to make choices. What was decided is that 21 pools and 21 recreation centers were not feasible, in 2012, for viable funding. There are ten buildings and pools that have been closed for ten years. Her fear is that if the City does not move forward with the amenities people will lose out. Coming before the Board of Adjustment is the last place the Parks Department wants to be. A park is a park, but the department must do this. If the City does not do anything, the neighborhood receives nothing, therefore the neighborhood totally loses out on the amenities that other parts of the City has or will have. Every child in Tulsa should have the opportunity to go to a water playground or go to a sports court. The City of Tulsa is moving toward a self-directed activity park because the City cannot afford staff and large overhead.

Comments and Questions:

Mr. White stated the reason the Board approved the other parks in the City with the demolition and the rebuild is because of the similar situation at B. C. Franklin Park. The building has been closed for several years and the money does not exist for staffing the pool and maintenance. The Board has been told that some of these properties have asbestos problems, and he would assume the building at B. C. Franklin Park is facing the same thing. All the existing buildings in the parks must be made ADA compliant which is cost prohibitive. The sales tax monies are improving but the money does not exist for maintaining buildings. The priorities will be such that the parks, sadly, will not be a priority. What is being proposed today is to provide a community service, maybe not the service that is desired, and he supports the plan the City has submitted to allow the neighborhood to have something instead of nothing.

Mr. Tidwell stated that he cannot support the request because he is not in favor of the proposal. He must support the community.

Mr. Henke is disappointed in the fact that no one in the neighborhood is enthusiastic about the proposed improvements. If the neighborhood does not want a splash pad and does not want to have a new multi-purpose court he respects that. This park was originally approved as a Special Exception, and the language of the Special Exception is that it must be compatible and non-injurious to the surrounding residential area. If there are countless people from the neighborhood who say they do not want this in their neighborhood, and there is not one person in attendance today who states they are in favor of these improvements, he cannot vote in favor of the proposal. Mr. Henke wishes the neighborhood was enthusiastically embracing this proposal and everybody was happy, but unfortunately the neighborhood is not there. He hopes that if today's request is denied the neighborhood will not stop pursuing an idea that the neighborhood is enthusiastic about.

Ms. Back asked Mr. Henke if the Board would consider letting the City ask for a continuance on this case, giving them an opportunity to go back to speak with the residents of the neighborhood. If that is a possibility the case could be continued to September 11th or September 25th allowing sufficient time to notify the neighborhood residents. Mr. Bubenik stated that September 11th would be an agreeable date.

Mr. Henke stated that the City has presented a plan that is not embraced by the neighborhood so a ruling on today's case needs to be made. This will require some studies.

Board Action:

On **MOTION** of **TIDWELL**, the Board voted 2-1-0 (Henke, Tidwell "aye"; White "nay"; no "abstentions"; Stead, Van De Wiele absent) to **DENY** the request for Modification to previously approved site plan (BOA-17108) to permit demolition of dilapidated structures and construction of new facilities (BC Franklin Park); for the following property:

W/2 NW SE LYING N OF AT & SF RR R/W LESS BEG 1328.55S NWC W/2 NW SE TH N306.14 NE846.42 TO EL W/2 NW SE TH S265.07 TO NL RR R/W TH SW870.51 POB SEC 30 20 13 11.55AC APROX, BULLETTE HGTS 2ND ADDN, CONSERVATION ACRES SUB, GREATER MT. CARMEL BAPTIST CHRUCH ADD RSB L1-4B4 BULLETTE HTS 2ND, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

On **MOTION** of **WHITE**, the Board voted 1-2-0 (White "aye"; Henke, Tidwell "nay"; no "abstentions"; Stead, Van De Wiele absent) to **APPROVE** the request for Modification to previously approved site plan (BOA-17108) to permit demolition of dilapidated structures and construction of new facilities (BC Franklin Park), finding that the modification approving the conceptual plan for funded and unfunded items conceptually approved will require no further Board of Adjustment action. The proposed improvements compatible with the neighborhood in previously approved special exception, except the modification meets the current zoning requirement for the following property:

W/2 NW SE LYING N OF AT & SF RR R/W LESS BEG 1328.55S NWC W/2 NW SE TH N306.14 NE846.42 TO EL W/2 NW SE TH S265.07 TO NL RR R/W TH SW870.51 POB SEC 30 20 13 11.55AC APROX, BULLETTE HGTS 2ND ADDN, CONSERVATION ACRES SUB, GREATER MT. CARMEL BAPTIST CHRUCH ADD RSB L1-4B4 BULLETTE HTS 2ND, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

In Case BOA-17108-A the request was denied because a motion requires three yes votes to pass.

There was a small break in the meeting while several in the audience left the meeting.

Mr. Henke left the meeting at 2:30 P.M.

Mr. Henke re-entered the meeting at 2:33 P.M.

Mr. White left the meeting at 2:33 P.M.

Mr. White re-entered the meeting at 2:36 P.M.

08897-A—Jack Bubenik – City of Tulsa

Action Requested:

Modification to previously approved site plan (BOA-08897) to permit construction of new facilities (Whiteside Park). **LOCATION:** 4051 East 41st Street **(CD 9)**

Presentation:

Jack Bubenik, City of Tulsa Parks Department, 175 East 2nd Street, Tulsa, OK; stated there is an existing splash pad in this park. The Parks Department did not know until very recently that it was necessary to come before the Board of Adjustment to request a modification to be approved. The Parks Department made a mistake. The Parks Department will be coming before the Board with several other parks, that are either constructed or well into the design phase.

Interested Parties:

Regina Goodwin, 762 North Denver, Tulsa, OK; stated she is concerned about this item, Whiteside Park. It has been said that there is no money for parks, but the City finds money for certain parks while certain parks are not funded. She knew Whiteside Park had a splash pad and she was curious why this request was coming before the Board of Adjustment. This further lends itself to a lack of communication or a lack of information being provided. This case is dealing with third penny sales tax dollars so she wonders why the request is being brought before the Board.

Mr. Henke stated the reason the case is before the Board of Adjustment is because there was a Special Exception that allowed the park originally. When it was approved it

was approved with a specific design. Now the design is changing and the Parks Department must come before the Board of Adjustment to receive approval for the design change.

Ms. Goodwin stated that seems to be a crossing of authority, as to who gets to make decisions. Mr. Henke stated the Board of Adjustment is a zoning board so the Board is handling the design aspect. The Board does not handle the finances or the Parks Department. It is not up to the Board to make the decisions as to what goes where. The Board is purely tasked with whether this design change is in line with the neighborhood and it is not injurious to the neighborhood.

Joi McCondichie, 6521 East 27th Place, Tulsa, OK; stated she is concerned about this issue also. This park has a recreation center that has been maintained and has activities taking place.

Mr. Henke stated that is an issue with the Parks Department. Mr. Henke requested she stay focused on the zoning aspect, by either being in favor of or against an existing splash pad. This case is nothing more than that.

Ms. McCondichie stated she understood and she is addressing the issue. She thinks it would be detrimental to the neighborhood because there are several amenities, i.e., a building, a pool and a splash pad. There are sites existing for the parents to sit to watch the children. There is a dog park that is available for the neighborhood. For the City to place additional money into this park would overload that neighborhood, because it is a neighborhood of older residents and not a lot of children. That money could be utilized at another park.

Emma Lacy, 2257 North Xanthus Avenue, Tulsa, OK; stated she grew up in Tulsa, was gone 20 years, and has moved back to Tulsa four years ago. It does not look like the north side of Tulsa is excelling. Ms. Lacy stated, "In all due respect, the Board is Caucasian, she is black and blacks do not 'do' water parks." When the City comes into a neighborhood they should think about what the residents like to do. Her forefathers may have come from Africa but her people do not like the sun. The City should not think about what is good for them, they should think about what is good for the residents.

Anthony L. Marshall, 1807 East Young Street, Tulsa, OK; stated he would ask the Board not approve the modifications the Parks Department is requesting, in this case and in the next case immediately after this one. They are not following procedure. They are asking for this Board to ex post facto approve items that have already been completed. Continuing to operate in this manner will result in unnecessary hardship on the City government and present a substantial detriment to the public good. They are not following the policy put forth.

Rebuttal:

Jack Bubenik came forward. He stated the facility is already open, it is successful, and the Parks Department did make a mistake. The department should have presented this to the Board of Adjustment a year ago. That is why the Parks Department is before the Board now, and will be before the Board again with several other parks.

Comments and Questions:

Mr. Tidwell stated that Mr. Marshall made a valid point, but he did not see any alternative but to approve the project because it is already in operation.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Tidwell, White “aye”; no “nays”; no “abstentions”; Stead, Van De Wiele absent) to **APPROVE** the request for a **Modification** to previously approved site plan (BOA-08897) to permit construction of new facilities (Whiteside Park). This approval will be per plan 6.7, 6.8 and 6.9. Finding to approve a special exception to permit a park located in a RS-3 zoned district per plans submitted for funded items, and unfunded items conceptually approved, with no further Board of Adjustment approval required; finding the proposed improvements to be compatible with the neighborhood; for the following property:

SW SE LESS N 155 & LESS ALLISON ACRES SEC 21-19-13, ALLISON ACRES, MARION GARDENS, WALTER FOSTER ADDN B17-18, WALTER FOSTER ADDN RESUB L11-12 B18, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

15058-A—Jack Bubenik – City of Tulsa Parks

Action Requested:

Modification to previously approved site plan (BOA-15058) to permit construction of new facilities (Hilti Park). **LOCATION:** 12148 East 51st Street **(CD 7)**

Presentation:

Jack Bubenik, City of Tulsa Parks Department, 175 East 2nd Street, Tulsa, OK; stated the Parks Department is requesting permission to build a restroom facility at Hilti Park. Currently there are port-a-johns on the site. There are multiple tournaments held at this park, the park is very busy, and there is a need for a restroom facility. The old site plan showed a concession stand in the park and that building would be modified to have a restroom facility.

Interested Parties:

Joi McCondichie, 6521 East 27th Street, Tulsa, OK; stated why is there a need for a restroom facility at a baseball park when there are port-a-johns in use. She does not understand why there is a need to build a restroom facility. Is a restroom part of the amenities?

Rebuttal:

Jack Bubenik came forward and stated there are a lot of tournaments played at this park. The City has approximately \$250,000.00 to build a small restroom facility. The park would still be utilizing the port-a-johns during tournament play. The proposed restroom facility is to alleviate the quantity of port-a-johns at the park during tournaments.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Tidwell, White “aye”; no “nays”; no “abstentions”; Stead, Van De Wiele absent) to **APPROVE** the request for a **Modification** to previously approved site plan (BOA-15058) to permit construction of new facilities (Hilti Park). This approval is per conceptual plan on page 7.6 and 7.7. Finding the modification to approving the conceptual plans submitted for funded items, and unfunded items conceptually approved, require no further Board of Adjustment action; finding the proposed improvements to be compatible with the neighborhood in the previous approved special exception, such modification meets the current zoning requirements; for the following property:

LT 1 & W40 VAC ST ADJ ON E THEREOF BLK 1, LT 1 BLK 2, LT 2 BLK 2, LT 3 & E40 VAC ST ADJ ON W THEREOF BLK 2, LT 4 & E40 VAC ST ADJ ON W THEREOF BLK 2, METRO PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21453—Clay Johnson

Action Requested:

Special Exception to permit a duplex (Use Unit 7) in the RS-3 district (Section 401); Variance of the minimum lot area from 9,000 square feet to 7,000 square feet; Variance of the minimum land area per dwelling unit from 5,000 square feet to 3,500 square feet; Variance of the minimum frontage requirement from 75 feet to 50 feet (Section 404.C.1,2,3) to permit a duplex. **LOCATION:** 232 South College Avenue (CD 4)

Presentation:

Clay Johnson, 415 North 12th Street, Frederick, OK; stated he owns the subject property near the University of Tulsa. The home is currently a single family dwelling and he would like to renovate and finish the basement of the property. Half of the property is out of the ground and larger than the footprint of the upstairs portion of the home. He would like to finish out the downstairs portion to make it a livable space. The proposed home design is called a stack duplex, it is not the typical side-by-side duplex. A stack duplex does not make the existing home’s footprint any larger. There will be no improvements to the outside which might elude to the fact that the home is a duplex.

The property is unique because the basement is completely accessible from the outside by stairs in two different locations, the front and the rear. The home was originally built with the intentions of having living quarters downstairs. There is plumbing and electrical in place. He just wants to have a permitted and legal living space downstairs. There is a side-by-side duplex across the street and it sits on the same lot size as the subject property. To the west of the subject property is another side-by-side duplex that also has the same lot size as the subject property. The subject property has been approved for two parking spaces in the rear that will have access from 3rd Street.

Mr. White asked Mr. Johnson when the structure was built. Mr. Johnson stated that it was built in 1910. Mr. Johnson stated that at one time there was a beauty salon and a plumbing business downstairs.

Interested Parties:

Tanner Black, 216 South College Avenue, Tulsa, OK; stated he lives three houses north of the subject property. He opposes the proposed duplexing of the property because he is concerned about parking on College Avenue. If the subject property is allowed to become a duplex there will not be simply two cars parking on the street. He is also concerned about property values dropping. Many people in the neighborhood have purchased their home to refurbish and live in to make the area a family oriented neighborhood.

Patricia Mathis, 228 South College Avenue, Tulsa, OK; stated she lives next to the subject property. She moved into her house when she was four years old, and her house was built in 1905 and was the first house built on College Avenue. Now her home is her retirement house and is all she has. She would like for her neighborhood to stay the same, and she considers her neighborhood to be historic. All the homes are single-family homes except for the duplex across the street that has been there since the 1930s, and the duplex behind her, off the alley, which was built when Ms. Mathis was in high school about 65 years ago. She is concerned about the traffic a duplex would draw. She asks the Board to preserve the neighborhood by denying the proposed duplex.

Glennella Doss, 720 East Marshall, Tulsa, OK; stated she owns the property located at 227 South College Avenue. There are several things about the application that concern her. She bought her property as a single-family home because she specifically wanted in a stable, established neighborhood so her son could safely live while attending Tulsa University. She has a problem with an out-of-town investor who wants to change the nature of the single-family area that has been established for many years. There are three out of four factors in this application that is not asking for just a slight variance but a significant variance, up to 33%. A single-family home usually has two automobiles and there is no parking available now for the subject property on 3rd Street, and no legal parking in front of the subject property because of the stop sign. The subject property is on a corner lot and there is no parking available in front of the subject property, so to convert a single-family house into a duplex will create a safety hazard. The two duplexes that are in the area were grandfathered into the current zoning requirements

because they were in place before the current zoning code. The purpose of grandfathering a piece of property is not to be that the property will always be deemed the best use and grandfathering is different than what this application is proposing or presenting. The major concern is how much is the applicant asking to have changed in terms of factors, i.e., water runoff and traffic.

Linda Black, 216 South College, Tulsa, OK; she opposes the proposed duplex. The parking will be a problem and a hazard on both streets. She purchased a single-family home and remodeled it for her son to live in, and she would like to keep the neighborhood as single-family homes.

Maria Barnes, P. O. Box 4329, Tulsa, OK; stated the neighborhood does not support the proposed duplex. The comprehensive plan shows the area as an existing and stable neighborhood. The people that move into Kendall Whittier purchase the homes to remodel and live in them. It is a single family area.

Rebuttal:

Clay Johnson stated that he had lived in Tulsa for 15 years, has a business in Tulsa with an office downtown, and chose to move out of Tulsa only two years ago. He admitted he is an out-of-town investor as far as where he currently lives but he loves Tulsa and works in Tulsa every week. Usually when he purchases properties they are dilapidated and distressed, and he historically renovates the property then leases them to hopefully reliable parties, i.e., TU students, sorority people, football players, law students, or people that he knows. As any landlord has had, there are issues that arise and when those come about he vacates the tenant as quickly as possible. He only wants to improve and historically modify the house to make it look like it should in its period. From that stand point, this property value has increased from his efforts thus far. As for the parking issue, the City has issued a permit for two parking spaces in the rear and there is an existing long driveway that would accommodate two more cars. In regards to the safety concerns for tenants on the bottom floor, that is his primary concern also. He will be obtaining a permit from the City to guarantee that everything is completed correctly. There have been three design changes to make sure the entrances and exits are adequate; that the windows heights are adequate; that the bedrooms are located where they are supposed to be; and that there are working smoke and carbon monoxide detectors in place. This application is in place only because there is no staircase adjoining the upstairs to the downstairs of the house, if there had been the house would not have been tagged as a stacked duplex.

Mr. Henke asked Mr. Johnson to tell the Board what his hardship for the property is. Mr. Johnson stated the hardship would be the opportunity to have a livable space in the downstairs portion of the house.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Tidwell, White "aye"; no "nays"; no "abstentions"; Stead, Van De Wiele absent) to **DENY** the request for a **Special Exception** to permit a duplex (Use Unit 7) in the RS-3 district (Section 401); **Variance** of the minimum lot area from 9,000 square feet to 7,000 square feet; **Variance** of the minimum land area per dwelling unit from 5,000 square feet to 3,500 square feet; **Variance** of the minimum frontage requirement from 75 feet to 50 feet (Section 404.C.1,2,3) to permit a duplex, finding a lack of hardship and the special exception would be injurious to the neighborhood; for the following property:

S 1/2 LT 4 BLK 6, PLEASANT VIEW ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21269-A—Jeremy Perkins

Action Requested:

Modification to a previously approved site plan (BOA-21269); **Modify** the condition of height from 14 feet to 24 feet to better match historical style of the home.

LOCATION: 302 East 29th Street **(CD 4)**

Presentation:

Jeremy Perkins, Architect, 2200 South Utica Place, Suite 216, Tulsa, OK; stated that in May, 2011 the owners were approved for a variance for the subject property for a one-story two-car garage with a conceptual site plan. After some construction of the addition it started to look like a bad add-on to the house. At that point there were decisions made to make adjustments to have the addition match the original house as closely as possible, which would involve the roof line.

Mr. White asked Mr. Perkins why he is before the Board of Adjustment since the original application had been approved "as a conceptual site plan", so he presumes that it was deemed that 14 feet to 24 feet was too much of a stretch for conceptual. Mr. Perkins stated the Building Permit Office told him that the site plan was conceptual but the 14 feet was a definite. Mr. Perkins stated that he thought the entire plan was conceptual, but that is why he is before the Board today.

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, Tidwell, White "aye"; no "nays"; no "abstentions"; Stead, Van De Wiele absent) to **APPROVE** the request for a **Modification** to a previously approved site plan (BOA-21269); **Modify** the condition of

height from 14 feet to 24 feet to better match historical style of the home. 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 12 BLK 23, SUNSET TERRACE, TRAVIS PARK ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21443-A—Andrew Shank

Action Requested:

Variance of the requirement that a sign (previously approved BOA-21443) be lit by constant light in the OM, OMH district (Section 602.B.4.f); Variance to allow more than one sign in an OM, OMH district (Section 602.B.4.b); Variance to exceed total square feet of display surface area from 880 square feet to 985 square feet (Section 602.B.4.c). **LOCATION:** 2440 East 81st Street, 8101 South Lewis Avenue, 8100 South Lewis Avenue (CD 2)

Presentation:

Andrew Shank, 2727 East 21st Street, Suite 200, Tulsa, OK; stated this case was before the Board recently. The developers are preparing for a grand opening and during that process they were in a rush to get everything filed and missed a wall sign on the north side and the digital element in the approved ground sign. The hardship is the unique shape of the lot and the depth of the lot. If the variances are approved it will allow the clinic to advertise their message to the public and utilize the visual technology of today in an office district.

Mr. White asked Mr. Shank if these were the same signs as were previously approved. Mr. Andrew agreed that they were but the developers want to make the display surface digital, which is roughly 30% of the previously approved square footage. The additional 105 square feet is for a wall sign on the north face. Originally the ground sign was conceptually approved to be located 70'-0" from the centerline of East 81st Street. Since that time the developer would like to locate the ground sign farther back from 81st Street.

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, Tidwell, White “aye”; no “nays”; no “abstentions”; Stead, Van De Wiele absent) to **APPROVE** the request for a Variance of the requirement that a sign (previously approved BOA-21443) be lit by constant light in the OM, OMH district (Section 602.B.4.f); Variance to allow more than one sign in an OM, OMH district (Section 602.B.4.b); Variance to exceed total square feet of display surface area from 880 square feet to 985 square feet (Section 602.B.4.c). This is in all in regard to the sign that is in previous case BOA-21443, that is shown at the north side of the property; it will be the same sign except it will be located no closer than 70'-0" from the centerline of East 81st Street. Finding the hardship to be the unusual size and odd shape of the lot itself, and the fact that the other signs on the property are almost hidden from view of the general public. 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:

PRT LT 1 BEG NWC TH S1008.29 E546.16 TH ON CRV LF 704.16 TH ON CRV LF 33.26 W41.82 N254.33 E50.01 TH ON CRV LF 31.77 TH ON CRV LF 128.44 TH ON CRV RT 171.12 N21.30 TH ON CRV LF 9.22 W939.9 POB LESS BEG NWC LT 1 TH E431.84 S1008.79 W431.84 N1008.65 POB BL, PRT LT 1 BEG NWC TH E431.84 S1008.79 W431.84 N1008.65 POB BLK 1, PRTL1BEG939.90ENWCTHE558.08S30.29CRVRT 171.12CRVLF128.44CRVLF31.77E50.01S254.3 3W41.82CRVLF33.26CRVLF704.16E656.38S598 .22W1701.03N64.5W58S64.5W779.12CRVRT.10 N602.32E546.16CRVLF704.16CRVLF33.26W41. 82N254.33E50.01CRVLF31.77CRVLF128.44CRV RT171.12N21.30, ORAL ROBERTS UNIVERSITY HGTS 2ND ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 3:44 p.m.

Date approved: _____

8/14/12

Handwritten signature in blue ink, appearing to read "Frank X. ...".

Chair