

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1084  
Tuesday, December 11, 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 Snyder Van De Wiele White, Vice Chair	Tidwell, Secretary	Miller Back Sparger	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, December 6, 2012, at 11:02 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.

Mr. Henke explained to the applicants that there were only four board members present at this meeting, and 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 all three board members to constitute a majority and if one or two board members voted no or recused today the application would be denied. Mr. Henke asked the applicants if they understood and asked the applicants if anyone would like to continue their case. None of the applicants asked to be continued to the next Board of Adjustment meeting. The meeting proceeded.

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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 **WHITE**, the Board voted 3-0-1 (Henke, Van De Wiele, White "aye"; no "nays"; Snyder "abstained"; Tidwell absent) to **APPROVE** the **Minutes** of the November 27, 2012 Board of Adjustment meeting (No. 1083).

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## **UNFINISHED BUSINESS**

### **21506—Roy Johnsen**

#### **Action Requested:**

Variance to permit an off premise sign in a CO District (Section 1221.F.1 and Section 1221.F.7). **LOCATION:** East of the SE/c of East 75<sup>th</sup> Street and South Mingo Road (**CD 7**)

#### **Presentation:**

No presentation was made; the applicant has requested a continuance to January 8, 2013.

#### **Interested Parties:**

There were no interested parties present.

#### **Comments and Questions:**

None.

#### **Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **CONTINUE** the request for a Variance to permit an off premise sign in a CO District (Section 1221.F.1 and Section 1221.F.7) to the Board of Adjustment meeting on January 8, 2013; for the following property:

**BEG NEC GOV LT 2 TH W524.36 CRV L 122.57 SE50 CRV RT 185.44 S40 CRV RT 373.06 SW85 CRV RT 184.57 NW35 CRV L 172.79 W30 CRV L SW47.12 S680 E1197.17 N1306.70 POB SEC 7 18 14 25.020ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

### **21454—Arthur Wallace**

#### **Action Requested:**

Special Exception to permit carport in the required front yard in an RS-3 district (Section 210.B.10.g); Variance from extending 20 feet into the required front yard to 31 feet from the existing principal building (Section 210.B.10.c); Variance of maximum height from 10 feet to 11 feet - 4 inches (Section 210.B.10.d); Variance from the maximum allowed carport size from 20'-0" x 20'-0" to 19'-0" x 30'-0" (Section 210.B.10.a). **LOCATION:** 5136 South Troost Avenue East (**CD 9**)

**Mr. Henke recused himself and left the meeting at 1:05 p.m.**

**Presentation:**

**Arthur Wallace**, 5136 South Troost Avenue, Tulsa, OK; no presentation was made but the applicant was present for questions.

Mr. White asked Mr. Wallace if he had obtained a modified, signed and executed license agreement from the City of Tulsa. Mr. Wallace stated that the license agreement has not been signed by the Mayor. Mr. White asked Mr. Wallace if the councilor had signed the document. Mr. Wallace stated that the councilor had not signed it.

Mr. Swiney stated the document is a standard license agreement that has not been executed by the Mayor or by the City Council. He knows the item was on the Mayor's agenda yesterday with the recommendation from the Engineering Department to move forward. However, it has not been before the City Council.

Mr. Van De Wiele asked which should come first, the Board of Adjustment approval or the Mayor and Council's approval. Mr. Swiney stated that the Mayor and Council approval of a license agreement is based on public safety, visibility, and the public good. The Board of Adjustment's judgment is going to be in terms of the impact on the neighborhood, the comprehensive plan, the zoning code, and other considerations. If the City of Tulsa does not issue the license agreement then Mr. Wallace cannot move forward, and it does not matter if the Board of Adjustment gives approval. The license agreement is an essential element to this case.

Mr. Van De Wiele asked Mr. Swiney if the Board could hear this case and if they gave approval contingent upon receipt of the license agreement, or does it need to go to the Mayor and the City Council prior to the Board. Mr. Swiney stated that the preferred course would be for the Board of Adjustment to issue its approval or disapproval contingent on the license agreement, because the license agreement could stay with the City Council for weeks.

Ms. Miller stated that Mr. Swiney's statement sounds reasonable. The Board of Adjustment could continue the case to the next meeting, but there is no guarantee that the City Council will have approved or disapproved the license agreement.

Mr. Swiney stated that if it is the Board of Adjustment's judgment to wait until the City Council takes action that would be appropriate.

Mr. White stated that in his tenure on the Board he has never seen a request for a residential carport encroaching in the street right-of-way come before the Board for approval. In view of the fact that the Board does not have a fully executed license agreement, he would have difficulty voting for an approval. He understands that Mr.

Wallace has the right to have the carport with the special exception that has been requested. In regards to the variances that are requested, Mr. White believes the hardship is totally self-imposed. Mr. White is open to suggestions from the Board members or Mr. Wallace.

Mr. Van De Wiele stated that he could approve Mr. Wallace's request contingent upon the receipt of the signed and fully executed license agreement. The carport exists and it is being used. Mr. Van De Wiele would suggest a continuance for this case.

Mr. Wallace stated that all he wants to do is protect his cars from the 100 year old pecan tree in his yard. If his request is not approved he will have the pecan tree removed but he does not want to that unless he is forced to do so.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-1 (Snyder, Van De Wiele, White "aye"; no "nays"; Henke "abstaining"; Tidwell absent) to **CONTINUE** the request for a **Special Exception** to permit carport in the required front yard in an RS-3 district (Section 210.B.10.g); **Variance** from extending 20 feet into the required front yard to 31 feet from the existing principal building (Section 210.B.10.c); **Variance** of maximum height from 10 feet to 11 feet - 4 inches (Section 210.B.10.d); **Variance** from the maximum allowed carport size from 20'-0" x 20'-0" to 19'-0" x 30'-0" (Section 210.B.10.a) to the Board of Adjustment meeting on February 12, 2013; for the following property:

**LT 7 BLK 3, LECRONE'S LAZY L ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. Henke re-entered the meeting at 1:14 p.m.**

**21493—Kinslow, Keith & Todd – Nicole Watts**

**Action Requested:**

~~Variance of parking requirement from 56 spaces to 51 spaces (Section 1211.D);~~  
~~Variance of a 5 foot landscape area along abutting street right-of-way (Section 1002.A.2).~~ **LOCATION:** 3712 East 11<sup>th</sup> Street (CD 4)

Ms. Back stated that after the last meeting the applicant redesigned the parking for the site and now meets the parking requirements for the site.

**Ms. Snyder recused and left the meeting at 1:15 p.m.**

**Presentation:**

**Nicole Watts**, 2200 South Utica Place, Suite 200, Tulsa, OK; stated that since the last meeting the applicant did listen to the Board's comments and revisited the site. The parking has been redesigned to meet code; therefore, the variance request for the parking spaces has been withdrawn. Today the applicant is requesting the Board to approve the five foot landscape variance along the public right-of-way. The hardship is that the property is in CH zoning. In CH zoning there is a zero foot building setback requirement, and there is also a five foot landscape requirement which contradicts each other. The issue is in front of the building and along 11<sup>th</sup> Street and Louisville; on the Louisville side is an existing parking lot. Everywhere else, where the site is being revised, the five foot landscape requirement will be in place.

**Interested Parties:**

**Robert Dooman**, 3729 East 11<sup>th</sup> Street, Tulsa, OK; stated that his main concern regarding this project was the parking requirements being met. He would ask the Board to have the applicant show exactly what they have done to be able to meet the parking requirement. In regards to the landscaping, it is obvious that the applicant is using a grassy area and turning it into parking. Along Louisville there is a grass strip that is 100'-0" x 6'-0" wide that will be demolished, and that strip is on city property. It is his understanding that the alleyway will also be utilized which is public use, and that would also require five feet of landscaping, but that has not been applied for. It is also his understanding that the alleyway will be used 100% for directing the applicant's traffic flow. He understands that he can oppose this. He thinks there are a couple things that have not been addressed, and each time the applicant comes before the Board only a portion of the plan is being presented to the Board. They are not showing the entire plan for consideration. He thinks everything that is going to be done with the parking is contingent upon receiving a parking agreement for the use of the City right-of-way that was done in 1946 for the purpose of a church that only operated on Sunday. Everyone that is in the area, that has changed the footprint of an existing building, has met the landscaping requirements. He thinks the hardship for this variance request is self-imposed.

Mr. Henke stated that the request for the parking spaces has been taken off the table, so it is no longer under consideration. Mr. Dooman stated that he understands that, but the applicant is taking existing green space and use it for the parking. He thinks that everything that is being done will be contingent upon receiving the license agreement

with the City. Mr. Henke stated that the Board would address that issue should it come before them.

Mr. Henke stated that in the last meeting he asked Mr. Dooman if he had any issues with the landscaping requirements, and Mr. Dooman had stated that he did not have any issues. Mr. Dooman stated the design plans have now changed. The applicant has encumbered more space and taken away more landscaping.

**Dan Brown**, 3823 East 11<sup>th</sup> Place, Tulsa, OK; stated this particular property has operated in nonconformance since 1970. The main problem, being as it is commercially zoned, is that there is no screening. The other problem is there no proper ingress or egress, which should be located on 11<sup>th</sup> Street or Louisville for the parking lot. He does not understand why this property would be built with an entry from the alleyway. The alleyway has been a problem for the neighborhood. There has been a tremendous amount of traffic using the alleyway, mainly because of the carwash.

Mr. Henke asked staff if the landscaping was along Louisville and 11<sup>th</sup> Street. Ms. Back stated that is correct. Mr. Henke asked Ms. Back about the screening on the south side of the property along the alleyway Mr. Brown is referring to. Ms. Back stated screening is required along the south boundary line, and suggested Ms. Watts explain what the proposal for that area would be.

Mr. Henke thought the request was for the boundary along Louisville. Ms. Back stated that the variance request is for a five foot landscape area along the right-of-way on East 11<sup>th</sup> Street and along South Louisville Avenue. The applicant is not requesting a screening variance along the south side of the property because there will be screening component provided.

Mr. Henke asked staff how the alleyway is germane to this discussion. Mr. Brown asked how the applicant could have screening if there are three driveways going into the alleyway which are against the code. The applicant is supposed to be cutting into Louisville or 11<sup>th</sup> Street under the code. Mr. Henke stated that what is before the Board today is a variance request for screening on the west and north sides of the property, not the south or east sides of the property. Mr. Brown then asked if the applicant's intent is to place screening along the south side of the property. Mr. Henke said that it could be asked of Ms. Watts. Mr. Brown asked if he was asking about something that is not supposed to be in existence. Mr. Brown stated that he reads the code to state that there is to be an eight foot masonry screening for the entire piece of property.

Mr. Henke stated that he thinks that he and Mr. Brown are talking about two different subjects. Mr. Henke stated that he is talking about landscaping on the west side and the north side of the subject property, and Mr. Brown is talking about screening between the properties on the south side. Mr. Henke stated that the applicant is not requesting a variance of the screening requirement from the properties on the south side. Mr. Van De Wiele stated that since the applicant is not requesting a variance of the screening requirement on the south side, the applicant must comply with the screening

requirements. Mr. Henke stated the applicant must meet the code and the south side is not an issue at this meeting. Mr. Brown stated that it is the Board's responsibility to protect the RS properties. Mr. Henke stated the applicant has not requested any relief so under the code the RS properties are protected.

**Rebuttal:**

Ms. Watts came forward and stated that her client plans to provide screening that is required by the code. The applicant will keep the driveways onto the alley, which is allowed and encouraged by City staff and Traffic Engineering. They do not want the traffic to cut onto 11<sup>th</sup> Street or South Louisville. That was the first presentation of the site to the City, and Steve Carr requested that her client stay with the alley. Ms. Watts stated that she does not think there is a requirement that her client must have a driveway onto 11<sup>th</sup> Street. Screening is required to be provided everywhere where there is not a driveway, and adequate screening will be provided as required. The site does meet the 10% landscaping requirement on site, and no variance has been requested for that because code has been met.

Mr. Van De Wiele asked where the landscape areas are to be located. Ms. Watts stated on the west side and the north side. Mr. Van De Wiele asked Ms. Watts about the strip of land between the subject property and 11<sup>th</sup> Street. Ms. Watts stated her client is reducing the pavement on 11<sup>th</sup> Street by a minute amount.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-1 (Henke, Van De Wiele, White "aye"; no "nays"; Snyder "abstaining"; Tidwell absent) to **APPROVE** the request for a **Variance** of a 5 foot landscape area along abutting street right-of-way (Section 1002.A.2) on South Louisville Avenue East and East 11<sup>th</sup> Street South. This approval will be per conceptual plan on page 3.12. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**LTS 7 THRU 12 BLK 2, MAYO ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Ms. Snyder re-entered the meeting at 1:34 p.m.**

## **21500—Dirk Hunter**

### **Action Requested:**

Special Exception to modify front yard fence height from 4 foot to 8 foot (Section 210.B.3); Variance to reduce the required front yard setback from 25 feet to 13 feet; Variance to reduce the setback from the centerline of East 32nd Place from 50 feet to 38 feet; Variance to reduce the required rear yard setback from 20 feet to 11.5 feet (Section 403.A, Table 3); Variance to allow a pool in the required front yard (Section 210.B.6); Variance to reduce the required livability area from 2,750 square feet to 2,460 square feet (Section 1404.A). **LOCATION:** 1439 East 32<sup>nd</sup> Place South (CD 9)

### **Presentation:**

**Dirk Hunter**, 1439 East 32<sup>nd</sup> Place, Tulsa, OK; stated that the lot is non-conforming and the topography of the lot is what forced this issue. He purchased the property a little over a year ago, and he knew that it was going to be an investment property. Due to a creek on the rear of the lot and the placement of the house there is nowhere else to place the pool but in the front of the lot. Everyone that lives on the street is in full support of the proposal.

Mr. Van De Wiele asked Mr. Hunter why he did not build a smaller house and place the pool on the east side of the lot. Mr. Hunter stated that he wanted to save a small grove of mature trees, and the carport could only be placed on the west side. He asked the architect to design a house that did not look like it was crammed onto the lot. He wants a house that is pleasing to the eye and the neighborhood.

### **Interested Parties:**

**Bill Grant**, 1411 East 32<sup>nd</sup> Place, Tulsa, OK; stated he lives in the house immediately to the east of the subject property. He has not seen the house plans until today, and he is impressed. The proposal would be a significant improvement to the neighborhood. He does not have a problem with the pool being placed in the front yard as long as the pool is properly secured against small children.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **WHITE**, the Board voted 3-1-0 (Henke, Snyder, White “aye”; Van De Wiele “nay”; no “abstentions”; Tidwell absent) to **APPROVE** the request for a Special Exception to modify front yard fence height from 4 feet to 8 feet (Section 210.B.3); Variance to reduce the required front yard setback from 25 feet to 13 feet; Variance to reduce the setback from the centerline of East 32nd Place from 50 feet to 38 feet; Variance to reduce the required rear yard setback from 20 feet to 11.5 feet (Section 403.A, Table 3); Variance to allow a pool in the required front yard (Section 210.B.6); Variance to reduce the required livability area from 2,750 square feet to 2,460 square feet (Section 1404.A). This approval is per conceptual plan on page 4.15. Finding the



hardship for all the variances to be the very unusual configuration of the lot, extreme shallowness of the lot, the presence of the creek in the rear, and overheight wall on the existing street. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. 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:

**S50 OF LT 3 S 50 OF LT 4 BLK 3, PEORIA ACRES ADDN SUB L7-9 & 12-16, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21502—Davies Architects – Buck Davies**

**Action Requested:**

Special Exception to permit church use (Use Unit 5) in RS-2 and OL Districts (Section 401); Variance of the minimum building setback from an R District (required rear yard) from 25 feet to 10 feet (Section 404.F.4 and Section 403.A, Table 3); Variance of the maximum height from 35 feet to 41 feet (Section 403.A, Table 3).  
**LOCATION:** 5414 and 5502 South Harvard Avenue (CD 9)

**Mr. Henke recused and left the meeting at 1:50 p.m.**

**Presentation:**

**Buck Davies**, Davies Architects, 2700 South Boston Avenue, Tulsa, OK; stated the subject property is bounded by Harvard Avenue, Tulsa Public Schools property on the south and west side, and a drainage easement on the north side.

**Interested Parties:**

**David Johnson**, 5206 South Harvard, #208, Tulsa, OK; stated he lives in a condominium complex near the subject property. There are approximately 90 units in the complex and it is directly north of the property. He can see the church and the school unit from his back patio. He has concerns with this proposal. There is an outdoor stage on the north side of the building and is concerned with the noise level when the stage is in use. The Tulsa Public School has been leased. According to the plan the south half of that lease is to be a parking lot and the north half does not have a description of how it will be used. He does not want to have temporary buildings or storage units placed there. He is concerned about the parking lot, because if there is no

screening placed between his unit and the parking lot he would be looking at automobiles everytime the church is being used. He would like to have the parking lot lights shielded. He has concerns about the placement of the dumpsters because he does not want them next to the fence area. He would like to see the parking lots have security or be blocked off from public use late at night. Mr. Johnson does not have any concerns about the building but he does have concerns about what will happen on the back portion of the subject property.

**Rebuttal:**

Mr. Davies came forward to address Mr. Johnson's concerns. Mr. Davies stated the facility will be brick and shingles that match the existing church. The outdoor stage does face Mr. Johnson's complex and it will be used for outdoor worship services and entertainment. There is landscaping planned, but the contract has not been let as of yet. In respect to the parking, there will not be security provided for the parking. Mr. Davies suspects the parking lot will be used by joggers who use the soccer fields and running trail in the area. The school, by right, has the use of the parking lot. The west boundary will be screened because of the parking lot, and the area north of the parking lot is open space that is slated to become a community garden. The church wants to be a good neighbor and will take Mr. Johnson's concerns into consideration.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-1 (Snyder, Van De Wiele, White "aye"; no "nays"; Henke "abstaining"; Tidwell absent) to **APPROVE** the request for a Special Exception to permit church use (Use Unit 5) in RS-2 and OL Districts (Section 401); Variance of the minimum building setback from an R District (required rear yard) from 25 feet to 10 feet (Section 404.F.4 and Section 403.A, Table 3); Variance of the maximum height from 35 feet to 41 feet (Section 403.A, Table 3). This approval is subject to conceptual site plan on page 5.23. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. 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:

**A tract of land in the Southeast Quarter of the Northeast Quarter (SE/4 NE/4) of Section 32, Township 19 North Range 13 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, being more particularly described as follows, to-wit:**

Commencing at the Northeast corner of said SE/4 NE/4; thence S 01°22'00" E along the East line of said SE/4 NE/4 for a distance of 766.69 feet; thence S 88°37'27" W parallel to the North line of said SE/4 NE/4 for a distance of 50.00 feet to the Point of Beginning; thence continuing S 88°37'27" W for a distance of 686.69 feet; thence N 01°22'00" W for a distance of 418.00 feet; thence N 88°37'27" E for a distance of 270.35 feet to the West line of Terra Aedes Addition; thence N 88°38'00" E for a distance of 10.00 feet; thence N 01°22'00" W a distance of 30.00 feet; thence N 88°38'00" E for a distance of 10.00 feet; thence S 40°43'47" E for a distance of 50.45 feet; thence S 45°08'22" E for a distance of 66.25 feet; thence S 56°39'47" E for a distance of 63.46 feet; thence N 88°37'23" E for a distance of 58.17 feet; thence S 01°22'33" E for a distance of 25.00 feet; thence N 88°37'27" E for a distance of 208.17 feet; thence S 01°22'00" E for a distance of 300.00 feet to the Point of Beginning. Containing 252,279.89 square feet or 5.7915 acres, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Henke re-entered the meeting at 2:04 p.m.

#### **21503—Kerry Fielding**

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

Variance to allow a digital sign in an RS-3 District (Section 402.B.4). **LOCATION:** 5345 South Peoria Avenue East (CD 9)

##### **Presentation:**

**Kerry Fielding**, 399700 West 3100 Road, Ramona, OK; stated that the existing sign will be removed and a new sign will be installed in the same location at the same height as the old sign. The bottom portion of the sign will be the only portion that is digital and it will be a LED display.

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

**Tim Turner**, 5713 East 101<sup>st</sup> Place, Tulsa, OK; stated that the sign will have the capabilities to scroll or have animation. His company understands that the sign is not to be a running video board but it will have some animated capabilities.

##### **Comments and Questions:**

None.

##### **Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the request for a Variance to allow a digital sign in an RS-3 District (Section 402.B.4). This approval will be per conceptual plan on page 6.14, with the sign being erected in the same location

and the same height as the existing sign on the subject property. 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. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**S/2 NW SW NW LESS BEG NWC THEREOF TH S330 E660 N330 W25 S305 W585 N305 W50 POB FOR ST SEC 31 19 13 4.096ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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### **NEW BUSINESS**

#### **21508—Lou Reynolds**

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

Special Exception to permit an automobile wash (Use Unit 17) in a CS district (Section 701). **LOCATION:** 4631 South Peoria Avenue East (CD 9)

**Mr. Henke recused and left the meeting at 2:15 p.m.**

##### **Presentation:**

**Lou Reynolds**, 2727 East 21<sup>st</sup> Street, Tulsa, OK; stated he represents Mark Redmon who is the owner of the subject property. The property is an unusually deep piece of property, and one of the brokers let it be known that this site was the site for the first McDonald's in Oklahoma in 1961. The proposed project will be approximately 100 feet from the Swiss Air Condominiums. Typically people are concerned with the noise of the dryers at the car wash. The dryers will be at the west end of the building and the dryer housing will be masonry walls. The decibels as going towards South Peoria will be softer than the noise generated by the typical Peoria Avenue traffic. There will be no access to the north or to the east. The alley will not be used in any fashion for the carwash. The landscaping exceeds the code requirements. The facility will be a very nice facility and there is an identical facility located at Tulsa Hills, and Mr. Redmon has

operated that facility for several years. Mr. Reynolds stated that he had read a letter from Ms. DesBarres, and had visited with her in regards to her concerns. There will be no affect on air pollution, and there will a lot less traffic than McDonald's had. The carwash will average approximately 300 cars daily. There will be no noise issue because the blowers are in a masonry building. The project is in conformity with the Comprehensive Plan and will not be injurious to the spirit and intent of the code.

**Interested Parties:**

**Marion DesBarres**, 1313 East 48<sup>th</sup> Street, Tulsa, OK; stated she is concerned about the noise from the blowers and the auto pollution. She has lived at Swiss Air for 30 years and is very familiar with the old McDonald's. There are two carwashes already in the area and they are designed differently than the proposed project. She compared the noise level of the Tulsa Hills Triple Play carwash facility to the two established carwashes on South Peoria. The carwashes on South Peoria are a lot quieter than the Tulsa Hills establishment. Her concerns with the auto pollution, is that the carwash will be very near the auto service shop in the area. Once a day tow truck drives into the auto shop to drop a car, and when the tow truck comes into the vicinity of her unit the pollution permeates her unit. She has had to open the window and turn on the bathroom fan to disperse the pollution. The noise pollution will not allow people that live at Swiss Air to sleep in. The traffic volume is extremely heavy in the area. Ms. DesBarres stated that if the Board approves this request she may retain an attorney and file an appeal.

**Rebuttal:**

Mr. Reynolds stated that the noise level will be lower than the noise level generated by traffic on South Peoria. Also, in between Ms. DesBarres condominium and the carwash dryers there is a concrete building that will absorb some of the noise. Noise is absorbed by mass and in particular concrete structures. Noise is also depleted as it moves. There will have a lower impact on Peoria traffic than the McDonald's. The hand held vacuums will be placed on the north side of the building away from the neighborhood. There will be landscaping on the east side and the north side of the subject property.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-1 (Snyder, Van De Wiele, White "aye"; no "nays"; Henke "abstaining"; Tidwell absent) to **APPROVE** the request for a **Special Exception** to permit an automobile wash (Use Unit 17) in a CS district (Section 701). This approval is subject to the conceptual plan from the plans submitted today, December 11, 2012. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**LT 2 BLK 6, CEDAR GARDENS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. Henke re-entered the meeting at 2:32 p.m.**

**21509—McAfee Holding Group, Inc.**

**Action Requested:**

Variance of the all weather material requirements for parking (Section 1303.D).

**LOCATION:** 12037 East Pine Street North (CD 3)

**Presentation:**

**David McAfee**, P. O. Box 610, Catoosa, OK; stated he represents McAfee Holding Group. He has a lot of heavy equipment that moves in and out of the property, and he would like to install an aggregate base for the equipment use. A portion of the property is currently gravel and a portion is paved. The paved portion is used for small vehicles and customers that come into the office. The entrances and exits will be concrete and from the gate the aggregate would be laid for the heavy equipment use.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the request for a Variance of the all weather material requirements for parking (Section 1303.D). This approval is subject to conceptual plan on page 9.6. Finding that the hardship is the equipment that is operated on the parking surface is very heavy and damaging to any concrete or asphalt surface. The area for office parking in the front, and is existing, is concrete and it will remain and maintained as concrete. All approaches to the subject property are to be concrete or asphalt. finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**LT 1 BLK 1, LT 2 BLK 1, THE BILL REDWINE ADDN, CRAIN ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

## **21510—Obie Bolton**

### **Action Requested:**

Verification of the spacing requirement for a liquor store of 300 feet from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3). **LOCATION:** 1707 Southwest Boulevard (CD 9)

### **Presentation:**

**Obie Bolton**, 417 East 40<sup>th</sup> Place North, Tulsa, OK; no presentation was made but the applicant was available for questions.

Mr. Henke acknowledged that the Board had a copy of the applicant's survey.

### **Interested Parties:**

There were no interested parties present.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant's verification of the spacing requirement for a liquor store of 300 feet from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores subject to the action of the Board being void should another above referenced conflicting use be established prior to this liquor store; for the following property:

**W125 E200 N110 BLK 3, RIVERVIEW PARK SECOND ADDN RESUB, WEST TULSA ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

## **21511—Lou Reynolds**

### **Action Requested:**

Modification to previously approved site plan (BOA-09247) to construct a 37,000 square foot addition to accommodate for 60 additional beds. **LOCATION:** 6262 South Sheridan Road East (CD 9)

### **Presentation:**

**Lou Reynolds**, 2727 East 21<sup>st</sup> Street, Tulsa, OK; stated he represents Shadow Mountain Hospital. Shadow Mountain has been before the Board of Adjustment several times since 1986 and are before the Board today to request an amendment to a previously approved site plan. The only request that has been turned down by the Board of Adjustment involved access through South Lakewood, and that will not be a

component of this project. This request is to add 37,000 square feet of improvements which allow an additional 60 patient beds in the facility.

Mr. Henke asked Mr. Reynolds how many beds are currently in the facility. Mr. Reynolds stated there are currently 100 beds in the facility.

There will be over 660 feet of a wooded area between the Shadow Mountain facility and the nearest building. The hill and naturalized landscape to the west will stay in a natural state. The ring road that goes around the facility will be reconfigured just slightly. An existing building will be removed for the new addition. The addition will be cut into the hillside connecting the buildings.

Mr. White asked Mr. Reynolds how deeply the new building would be cut into the hillside. Mr. Reynolds stated that it was substantial and would be approximately ten feet.

The employee parking will be moved toward the back side of the building. The stormwater that comes from the parking area will be going toward the east and north into the storm drains. There will be a newly landscaped entry with a covered exterior walkway and a new main entrance to the hospital which will be accented with an windowed atrium. All the access to the hospital will be from Sheridan Road with none from Louisville or from the north. Only half of the property, approximately, will be utilized for this modification and existing structure.

**Interested Parties:**

**James Poe**, 5808 East 63<sup>rd</sup> Street, Tulsa, OK; stated he lives just west of Shadow Mountain below the hill and has lived there since 1973. He moved into the neighborhood before the origin of Shadow Mountain, which was started with an application to the Board of Adjustment for a special exception to permit a 30 bed psychiatric hospital. The special exception was approved initially in 1976. Before anything was constructed the owners came back to the Board of Adjustment in 1979 and asked for an additional 60 beds which was approved. The history the Board has omits activities and efforts of Shadow Mountain to modify their plan by expanding. In September 1986 there were plans to expand and include an additional 28 beds with an entry coming down the hill toward the west. That plan was opposed by the neighborhood because it would have been detrimental to the neighborhood and the residential quality of the neighborhood. Consequently the application was disapproved. The denial was appealed in the District Court by the Shadow Mountain owners, and in 1987 the District Court upheld the denial. The next application was made by Shadow Mountain to rezone the property to permit it to continue as the world headquarters for what was known as Dillon Family Shadow Mountain Facilities and Interests. The matter was denied on the basis that the expansion would be detrimental to the adjoining neighborhood. Mr. Poe stated he is a lawyer and he was involved on behalf of the neighborhood association in the District Court proceeding in 1986 case and the application for rezoning. Then, and even more so now, the concern with the establishment and the operation of the facility with 100 beds is the record that is



established with the Tulsa Police Department. In January thru November 2012 there has been 90 reports to the Tulsa Police Department seeking police assistance for some sort of departure from maintenance of a good order and peaceful existence. Out of the 90 reports Shadow Mountain reported 18 runaways or missing person. In the 90 reports there were 17 assaults, two bomb threats, eight disturbances, four domestic violations, one lewd molestation, one suicidal subject in the 90 reports. In 2011 there were 29 reports of missing persons or runaways. In 2010 there were several requests of assistance to the Tulsa Police Department. These are a number of violations or breaches of the peace that would cause a residential neighborhood concern. Mr. Poe submitted a printout obtained from the Police Department, covering the calls to Shadow Mountain from April 8, 2010 through November 2012, and asked the printout be made part of the official record.

Mr. Van De Wiele asked Mr. Poe how much of the police activity spilled over into the neighborhood. Mr. Poe stated that escapees are more inclined to run through the wooded area rather running toward Sheridan, and the wooded area brings the escapee into the neighborhood. Mr. Van De Wiele asked Mr. Poe how many of the assaults or disturbances were happening in his area. Mr. Van De Wiele stated that he understands the police are being called out to Shadow Mountain but he wants an idea of how those incidences spills over into Mr. Poe's neighborhood. Mr. Poe stated that approximately a year ago there were five vehicles that had the windows shattered, four of which were in the immediate neighborhood. Glass storm doors have been shot out with either a BB gun or air rifle. Mr. Van De Wiele asked Mr. Poe if the responsible party was caught and determined to be from Shadow Mountain. Mr. Poe stated the responsible party was not caught and not officially determined to be from Shadow Mountain.

Mr. Henke asked Mr. Poe if he was speaking on behalf of his neighborhood association. Mr. Poe stated that he is not speaking as a lawyer on their behalf.

As to the question as to whether the residents can identify a runaway or escapee from Shadow Mountain; numerous times. Young people have been observed either in a house, trying to enter into a house in the neighborhood, and there have various acts of vandalism that have been undetermined but police reports have been made. In regards to the topography, if a person stands on the southeast corner of the Shadow Mountain tract, the elevation rises 82 feet to essentially the very point where the construction will extend out from the existing facility. So the new building will be at the top of the hill, or approximately 80 feet from the first house that adjoins the western boundary line. The proposed 37,000 square foot structure is a huge structure and it will be very visible from the neighborhood.

Mr. Van De Wiele asked Mr. Poe if the existing facility could be seen from the neighborhood. Mr. Poe stated that it cannot be seen because the present facility is lower than the top of the hill and is placed on the incline toward Sheridan. The new facility will essentially be on top of the hill, and even if it is cut into the hillside it will still be visible to the neighborhood. Another concern of the residents of the neighborhood is that the square mile of 61<sup>st</sup> Street to 71<sup>st</sup> Street, Sheridan to Yale has more psychiatric

facilities than any square mile in the City of Tulsa. The neighborhood questions the benefits of such an expansion to Shadow Mountain.

**Susan Lindsey**, 6557 South Irvington Avenue, Tulsa, OK; stated she is neighborhood association representative, and she has been contacted by several residents with their concerns. She called Mr. Reynolds and the City, and there was a meeting with Mr. Reynolds and his client, Mr. Kestler. Even after the meeting some of the residents still had concerns. The decision was made to form a petition and 137 households, out of approximately 200 households in the neighborhood, object to the Shadow Mountain expansion. The petition was presented to the Board and entered into the official record.

**Kenneth Nolan**, 6119 South Joplin, Tulsa, OK; stated he apparently is just outside of the area of notification because he was not aware of this hearing until Sunday. His concern is that the applicant is requesting a variance on the entire piece of property, even though the applicant stated there is only going to be a portion of the property built on.

Mr. Van De Wiele stated that if the Board were to approve something, it would be subject to the plan that is submitted.

Mr. Nolan stated that the plan specifies the east side of the property for the new structure. What is the east side exactly? Mr. Van De Wiele had Ms. Back display a site plan on the overhead projector for everyone to view and Mr. Van De Wiele pointed out the area for the new construction. Mr. Nolan then asked when does all of this stop? When will variances stopped being granted? Mr. Nolan stated that his house is his retirement home, that it where he lives and plans to continue living. Mr. Nolan asked if there was anyway a greenbelt could be planned for and installed in the area. A greenbelt would protect the neighborhood and give Shadow Mountain space.

Mr. Van De Wiele stated that at this point all Shadow Mountain is asking for is what has been discussed today and presented on the viewing screen.

**Elizabeth Mills**, 6140 South Lakewood Avenue, Tulsa, OK; stated that she resides on the northwest corner of Shadow Mountain's property. She has witnessed kids running down the hill, trying to escape from Shadow Mountain, watching security guards run down the hill to catch those same kids. They have actually run between her residence and the duplex right next to her. Locks have been installed on privacy fence gates throughout the neighborhood to prevent any accidental entry from the escapees. She is satisfied with the statement made by Mr. Reynolds that there would only be a Sheridan access point. Ms. Mills wanted to know if Shadow Mountain is granted the variance to add 100 beds will there be extra security added also. The children are in a psychiatric facility. They have problems. She wants to be safe in her home and neighborhood.

**Bob Miller**, 5727 East 62<sup>nd</sup> Street, Tulsa, OK; stated that when he moved in with his family in 1980 they were able to walk through the surrounding wooded area frequently. When the Shadow Mountain Institute was built and occupied, kids started roaming in

the area and causing trouble and his family could no longer safely walk in the area. Now, frequently, he sees occupied parked cars in the neighborhood. He had asked the occupants of those parked car what they were doing, and the response to him was that they were looking for runaways. The neighborhood opposes this request, not only because of the problems that they are facing, but the loss of property value being faced.

**Mr. Henke left the meeting at 3:30 P.M.**

**Rebuttal:**

Mr. Reynolds came forward and stated that he would like to address the land development issues, and Mr. Mike Kistler is present to answer questions about the operations of the facility and the land use. Mr. Reynolds stated there would be no more improvements requested by Shadow Mountain for the west side of the property. The greenbelt of 660 feet will remain in place. There is no reason to request access to Lakewood Avenue because it is not needed. The hill is too steep to be built on. None of the Shadow Mountain facilities can be seen from anywhere off site except from Sheridan Road.

**Mr. Henke re-entered the meeting at 3:32 P.M.**

**Mike Kistler**, CEO of Shadow Mountain, 6262 South Sheridan Road, Tulsa, OK; stated that the west side of the property is approximately 100 foot elevation drop that is nonbuildable space. Originally Shadow Mountain had considered building on top of the hill, but it was cost prohibitive. It was then decided to keep everything one level and consistent with the existing building, which will not be seen by the surrounding neighborhood. Shadow Mountain is looking at upgrading the entire campus, and part of the expansion will make the facility much more aesthetic to the community. In regards to security, he understands the neighborhood concerns. There are a lot of words that are being used today, i.e., escapees. Shadow Mountain is not a jail or detention center. Mr. Kistler stated that he has been at Shadow Mountain for the last ten years, and he understands that there has been a questionable history with Shadow Mountain. About 70% of the kids at Shadow Mountain are depressed kids. They are not drug abusers. They are not criminals. These kids come to Shadow Mountain because they need help. In regards to law enforcement being called to Shadow Mountain, many of the kids have been abused, neglected, they need treatment. Shadow Mountain is a treatment provider not a jail. Unfortunately, a guardian or parent will not come pick their child up. They leave state or disappear. Shadow Mountain staff then calls law enforcement to come so a report can be filed with the Department of Human Services so the child can

be placed in a foster home or another environment. That is an assisted call. As for escapees, Shadow Mountain has two levels, acute and RTC. If a residential child leaves through the front door, Shadow Mountain's standard policy is to notify law enforcement because there is an underage, unsupervised juvenile outside. If a child wants to leave Shadow Mountain's campus the staff does not run after them, but understands that was the policy many years ago. These children are not a danger to themselves or others. There has never been a call placed to law enforcement to assist in de-escalate a situation. Shadow Mountain works to manage the clients within the area.

Mr. Henke asked Mr. Kistler about the concerns Mr. Poe had spoke about, i.e., serious felonies, rape, assault, etc. Mr. Poe submitted police reports as an exhibit regarding these concerns. Mr. Henke asked if they were or were not related to Shadow Mountain. Mr. Kistler stated that if a client states they were raped, whether in or outside the facility, Shadow Mountain staff will call law enforcement because the facility is required by law to make those calls. Any time there is any type of allocation, by mandate, the facility has to turn it into the Office of Client Advocacy. At that point, OCA staff will investigate the claim. In 2011, Shadow Mountain was a Gold Key recipient. Shadow Mountain received the award because of their good care. Shadow Mountain is a very safe facility and is part of a larger company that specializes in the care that is provided at Shadow Mountain. There are many regulatory agencies that audits and watches over the operations of Shadow Mountain. Law enforcement is not allowed beyond the front door. Law enforcement has guns and Mr. Kistler does not want guns in his facility. Investigators are escorted into the hospital to obtain information for the assisted call report.

Mr. White asked Mr. Kistler if there were any plans to install a fence on the west side of the property, which would force the patient to be diverted away from the neighborhood. Mr. Kistler stated that there will be a fence that will wrap around the property. Currently there is a fence on the north side of the property. But the fence is planned to actually keep the public out of the area because of the restaurants and bars in the immediate area. Mr. White asked Mr. Kistler what type of fence would be installed and how tall would the fence be. Mr. Kistler stated the fence will be chainlink that will be six or eight feet in height. Mr. White asked there would be razor wire installed along the top of the fence. Mr. Kistler stated there would not be any razor wire installed because he does not want anyone getting hurt. Shadow Mountain is a hospital not a jail. Patients are not court ordered to reside at Shadow Mountain.

**Mr. Henke left the meeting at 3:40 P.M.**

**Dean VanTrease**, 5738 East 62<sup>nd</sup> Place, Tulsa, OK; stated that the neighborhood needs to ask if they have done their part. Has the neighborhood already stepped

forward to do their part. The neighborhood residents are becoming older and it can be scary when someone is running through the neighborhood or your yard. Whether Shadow Mountain has a perception problem or not, there is a real problem. He is concerned over the concentration of this operation.

Mr. White supports Shadow Mountain expansion but would like to see more or better security for the facility.

Mr. Van De Wiele suggested a continuation for this case so Mr. Reynolds and Mr. Kistler could meet with the neighborhood to see if a compromise could be reached.

Mr. Kistler is willing to install a better fence, similar to what is at the other facilities. Shadow Mountain meets the hospital standards for staffing and the ancillary services are in place. There is 108% occupancy in the Tulsa area currently, and Shadow Mountain is under a certificate of need by the state. That means the state allows time to start the construction process. To ask for a continuance, knowing there is 108% of the Tulsa population that has the need of help now would jeopardize the situation.

**Kenneth Owens**, 5119 South Joplin, Tulsa, OK; stated that he has no argument that Shadow Mountain does good work, that is not what is being decided. The decision is whether Shadow Mountain gets to do good work that cause the neighborhood detriment. He is concerned with a commercial establishment moving deeper into the neighborhood. Shadow Mountain should perform their good work in a non-residential area.

**Anita Greiner**, 5811 East 64<sup>th</sup> Street, Tulsa, OK; stated that she is the person who called Mr. Reynolds and set up the meeting for the neighborhood. Mr. Reynolds wanted to have the meeting limited to core people, and there were about ten people in attendance. Ten days does not allow enough time to have another meeting with a larger group, that is why the petition was distributed by the Home Owner's Association for the household signatures.

Mr. Van De Wiele asked Ms. Greiner if there is anything Shadow Mountain can do or say that will change the minds of the neighborhood residents. Ms. Greiner answered affirmatively.

Mr. Poe came forward and stated that if there is a way in which the Board's decision can specify there will be no further development beyond what is now being presented, that would be an avenue to be explored. Mr. White stated that Shadow Mountain has the right to apply for a variance. Mr. Poe stated there is one provision that he sees in the code that states the Board has the authority to attach conditions to a variance. Mr. Poe stated that he also read in the code about the requirement of a bond, is it possible the Board could make that stipulation. Mr. White stated that the Board has never exercised that requirement. Mr. Poe stated that the bond is a possibility. Mr. White asked Mr. Poe what the bond would cover. Mr. Poe stated the bond would guarantee that no other applications for expansion would be made.

Mr. Swiney stated the variance that this Board has the power to grant, or a special exception, only applies to what the applicant has applied for. An applicant can come back to the Board with another plan at a later time if they so desire.

Mr. Reynolds came forward and stated that in regards to solving the problem of no farther expansion, Shadow Mountain would enter into a restricted covenant with the neighborhood that there would be no more expansion and this proposal would be the last of any expansion.

Mr. Van De Wiele asked Mr. Reynolds if his client would be willing to meet with the neighborhood to see what can be done to address any of their concerns. Mr. Van De Wiele stated he is inclined to approve the application, but there is hesitancy because a meeting could go a long way to address the concerns of the neighborhood.

Mr. Kistler came forward and stated that he is willing to do what is needed to be done, like meeting with the neighborhood. Shadow Mountain has been there for 32 years, has a service that is needed and they want to be a good neighbor.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke, Tidwell absent) to **CONTINUE** the request for a **Modification** to previously approved site plan (BOA-09247) to construct a 37,000 square foot addition to accommodate for 60 additional beds to the Board of Adjustment meeting on January 8, 2013; for the following property:

**S/2 NE NE LESS E551.61 N495 & LESS E50 S165 THEREOF SEC 3 18 13 13.551AC, N495 E551.61 S/2 NE NE LESS E50 FOR ST SEC 3 18 13 5.70ACS,DEBORAH JEAN ADDN, DEL PRADO, SOUTHCREST OFFICE PARK RESUB SOUTHCREST, SOUTHMONT ESTATES, SOUTHMONT ESTATES EXT, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21354-A – Craig Thurmond**

**Action Requested:**

**Variance** to permit a detached accessory building (guard house) to be located in the front yard (Section 402.B.1.b.) on a RS-1/AG zoned property. **LOCATION:** 4717 East 118<sup>th</sup> Street South **(CD 8)**

**Presentation:**

**Craig Thurmond**, Thurmond Consulting, 610 South Main, Broken Arrow, OK; stated this application is for a modification to an approval that was in January of 2012. The

property owner has 20 acres of property and has constructed an eight foot wall around the property. The client has made the decision to add a guard house for future use. The small structure does not require a building permit from the City of Tulsa, but it does require a zoning variance because the location is considered a front yard. There are a couple of neighbors across the street. There is one house the people are moving out of, and the subject property owner owns it. There are three other properties and the subject property owner also owns those; one is being used as the property owner's office and the other two are occupied by family members.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke, Tidwell absent) to **APPROVE** the request for a **Variance** to permit a detached accessory building (guard house) to be located in the front yard (Section 402.B.1.b.) on a RS-1/AG zoned property. This approval is subject to conceptual site plans on page 12.9, 12.10 and 12.11. Finding that the size of this lot is extraordinary or exceptional conditions or circumstances, which is peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**A tract of land located in the South Half of the Northeast Quarter of the Southeast Quarter (S/2 NE/4 SE/4) of Section Thirty-three (33) of Township Eighteen (18) North and Range Thirteen (13) East of the Indian Base and Meridian (I.B.&M.), according to the U.S. Government Survey, thereof, Tulsa County, State of Oklahoma; being more particularly described as follows:**

**Commencing at the NE corner of the SE/4 of Sec. 33, T-18-N, R-13-E, I.B.&M.; Thence S 0°05'52" E along the east line of said SE/4 a distance of 660.04 feet to the NE corner of the S/2 NE/4 of said SE/4; Thence S 89°59'15" W along the north line of said S/2 NE/4 SE/4 a distance of 50.00 feet to the Point of Beginning; Thence S 00°05'52" E parallel with the east line of said S/2 NE/4 SE/4 a distance of 647.53 feet; Thence S 89°59'30" W parallel with the south line of said S/2 NE/4 SE/4 a distance of 549.30 feet; Thence S 00°03'07" E a distance of 12.50 feet to the south line of said S/2 NE/4 SE/4; Thence S 89°59'30" W a distance of 727.01 feet to the SW corner of said S/2 NE/4 SE/4; Thence N 00°01'46" W a distance of 659.94 feet to the NW corner of said S/2 NE/4 SE/4; Thence N 89°59'15" E a**

**distance of 1275.52 feet to the Point of Beginning, and containing 19.17 acres, more or less, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

Ms. Back stated that the next applicant had requested to withdraw the case and requested a refund. When the applicant was told that a refund was not available because all the work on the case had been performed, the applicant decided to let the case go before the Board. The applicant did ask if he needed to be present for the hearing, and Ms. Back told the applicant that it would be advisable to be present. With the applicant not being present she does not know what to advise the Board, because she knows the applicant can use the Minor Special Exception. The case can be continued by the Board or a decision can be rendered today.

**21514—Cole Burdette**

**Action Requested:**

Minor Special Exception to reduce the required front yard setback from 25 feet to 20 feet (Section 403.A, Table 3 and Section 403.A.7). **LOCATION:** 2309 South Florence Avenue East **(CD 4)**

**Presentation:**

The applicant was not present. The Board chose to hear the case with the client in abstentia.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke, Tidwell absent) to **APPROVE** the request for a Minor Special Exception to reduce the required front yard setback from 25 feet to 20 feet (Section 403.A, Table 3 and Section 403.A.7). This approval is subject to conceptual site plan on pages 13.6, 13.7 and 13.8. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**LT 10 BLK 3, WIL-REY TERRACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**



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**OTHER BUSINESS**

None.

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**NEW BUSINESS**

None.

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**BOARD MEMBER COMMENTS**


None.

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There being no further business, the meeting adjourned at 4:06 p.m.

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

1/8/13

  
Chair