

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1146
Tuesday, August 25, 2015, 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 Snyder Tidwell, Secretary Van De Wiele White, Vice Chair		Miller Moye Foster Sparger	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Monday, August 24, 2015, at 8:30 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. Moye read the rules and procedures for the Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **TIDWELL**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, VanDeWiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the August 11, 2015 Board of Adjustment meeting (No. 1145).

UNFINISHED BUSINESS

21931—David Dryer

Action Requested:

Special Exception to permit new and used car sales in the CS District (Section 701, Table 1); Variance to allow open air storage and display of merchandise

within 300 feet of the R District (Section 1217.C.2). **LOCATION:** SE/c of East 11th Street South & South 145th East Avenue (CD 6)

Presentation:

Staff requests a continuance to 09/22/2015; waiting for zoning change to take effect.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a **Special Exception** to permit new and used car sales in the CS District (Section 701, Table 1); **Variance** to allow open air storage and display of merchandise within 300 feet of the R District (Section 1217.C.2) to the Board of Adjustment meeting on September 22, 2015; for the following property:

LT 1 BLK 1, TOWER VILLAGE CTR ADDN. CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21936—Stephen Schuller

Action Requested:

Special Exception to permit an office use (Use Unit 11) in the RM-2 District (Section 401, Table 1); **Variance** of the screening requirement for office uses in the R District (Section 1211.C.1); **Variance** of the required setback from the centerline of East 14th Street South to 40 feet (Section 603, Table 3); **Variance** of the required building setback from the abutting R District on the south side to 8.5 feet (Section 603, Table 3); **Variance** of the required parking for an office use in the RM-2 District from 7 spaces to 3 spaces (Section 1211.D). **LOCATION:** 1401 South Quaker Avenue (CD 4)

Presentation:

City of Tulsa requests a continuance to September 8, 2015; the applicant has requested additional relief and needs a new Letter of Deficiency.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **CONTINUE** the request for a **Special Exception** to permit an office use (Use Unit 11) in the RM-2 District (Section 401, Table 1); **Variance** of the screening requirement for office uses in the R District (Section 1211.C.1); **Variance** of the required setback from the centerline of East 14th Street South to 40 feet (Section 603, Table 3); **Variance** of the required building setback from the abutting R District on the south side to 8.5 feet (Section 603, Table 3); **Variance** of the required parking for an office use in the RM-2 District from 7 spaces to 3 spaces (Section 1211.D) to the Board of Adjustment meeting on September 8, 2015; for the following property:

LT 24 BLK 7, BELLVIEW ADDN. CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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NEW APPLICATIONS

21942—Malcolm Rosser

Action Requested:

Special Exception to permit a soup kitchen and grocery pantry (Use Unit 5) in the IM District (Section 901); **Special Exception** to permit required parking on a lot other than the lot containing the principal use (Section 1301.D); **Variance** to reduce the building setback requirement from the centerline of South Peoria Avenue to 50 feet; **Variance** to reduce the building setback requirement from the centerline of East 3rd Street South to 50 feet; **Variance** to reduce the building setback requirement from the centerline of East 4th Street South/South Owasso Avenue to 35 feet (Section 903). **LOCATION:** 302 South Peoria Avenue East (**CD 4**)

Ms. Snyder and Mr. Tidwell recused at 1:10 P.M.

Presentation:

Malcolm Rosser, 321 South Boston, #500, Tulsa, OK; stated he is requesting a continuance on this case, because what has been realized in the last several days is that a lot of people have concerns about the application. A lot of people are unclear about the application and want more information and he would like to have the opportunity to meet with everyone who has concerns about the project. There have been notices sent to everyone who received notice from INCOG of the application, but this is a larger group and would like to hear their concerns and address them. He wants to provide all the information for everybody so they can fully understand the proposed project and their concerns can be addressed. There is a scheduled meeting for

Tuesday evening, September 1st at Trinity Episcopal Church, located at 501 South Cincinnati, at 6:00 P.M. for anyone to attend. This is the location where Iron Gate currently operates and this location will allow everyone to see the current situation and how the change would help. Mr. Rosser stated that anyone that has submitted objections by e-mail will be notified or by mail if they have included an address regarding the meeting next Tuesday.

Mr. Henke stated the Board is going to listen to the interested parties in regards to the requested continuance, either for or against.

Interested Parties:

Leanne Benton, 605 South Peoria Avenue, Tulsa, OK; stated she is the President of the Pearl District Association. Her husband and she are also investors in the neighborhood. Their livelihood and future income is at stake here along with many others that are present today. The Iron Gate has been planning and organizing fundraising and designing their location strategy for many months. The relief request was filed on July 23rd, and The Pearl District Association along with dozens of business owners, property owners, residents and a coalition of neighboring associations have had no notice of the pending plan of the 16,000 square foot building.

Mr. Henke stated that Mr. Rosser has proposed meeting on September 8th which would allow additional time. Ms. Benton stated that she understands that.

Mr. Van De Wiele stated that all that is being discussed now is the request for continuation. Ms. Benton stated that she understands and asked if she may continue.

Ms. Benton stated that her fear is that not everyone will be able to attend the next meeting, and there are a lot of people that have flown in or driven in to attend this meeting today. Ms. Benton asked that whoever is in the audience that is against this request to stand; almost the entire audience stood in unison.

Ms. Benton stated that they have had one week to prepare arguments against this request, and if there is anyone in the room requesting a continuance it should be the people in the audience. They would much rather hear the case today and have it voted on today. The underlying complaints that are going to be made will not change in a matter of days, weeks, or months. There are legal grounds that should allow for a very clear vote to deny the application. Ms. Benton stated that they feel that it would be better for everyone if the current application were withdrawn to allow time to think the overall strategy of the soup kitchen and food pantry location, and what could serve their clientele much more efficiently and effectively. The neighbors would be happy to meet with Iron Gate to open up an honest dialogue of how to truly solve the problems the City is facing regarding hunger, homelessness, poverty and other difficult issues.

Mr. Van De Wiele asked Ms. Benton about her statement of wanting to meet with Iron Gate. Ms. Benton stated they do not think this should even be an application at this point. They do not think this property is right and they have very good legal standing on

that and she does not think that is going to change. Ms. Benton stated they would be open to having a dialogue about the conversation of homelessness and poverty in Tulsa. Ms. Benton stated that this week she has become a semi-expert at that because she has been listening to so many people and reading so many e-mails. It would be interesting to have a conversation about what other cities are doing and what is working for other cities.

Jeff Swanson, 1607 Dorchester Drive, Nichols Hills, Oklahoma City, OK; stated he owns the property at 410 South Peoria that will overlook the subject property. The people in attendance today would like to learn, listen and hear compassionately whatever may be the case to help the homeless blight in Tulsa, but the group putting the application forward did meet with some people from this group last week. They have learned what the applicant's plan is, seen the plan and seen the application. Mr. Swanson stated that he does not see any reason whatsoever for a continuance, and it would provide a hardship for many of the people that are in attendance today, to attend another meeting. He strongly opposes a continuance.

Mr. Henke stated that he does not know how the Board will vote on the continuance request, but if the Board does grant a continuance anyone that is unable to come back for another meeting can send an e-mail to staff. The Board does read all the e-mails and letters submitted and will always take them into consideration.

Mr. Swanson stated that he understands. He has presented to the Board several times and understands the game, the arguments and the responses do change when people are here live. Mr. Swanson stated that he has letters from tenants showing actual damages, there are certainly other responsive matters that he would be prepared to address, as well as other people in attendance today, in person depending upon the testimony of those putting forth the application. The neighbors got ready in a week and are here, they do not see any reason to delay this.

Jamie Jamieson, 754 South Norfolk Avenue, Tulsa, OK; stated that like everyone else his whole week and normal business life has been disrupted. He is a resident and a business owner in the Pearl District. He does feel as though this was sprung on everyone at the last minute after a very low-key public meeting that only one or two from the Pearl District Board were able to attend. Mr. Jamieson stated that the request for a continuance looks like a stunt because he suspects they thought they were going to lose, and so on extremely short notice they are requesting a continuance which he takes an exception to. Mr. Jamieson stated he believes the continuance request is in hopes that the neighbors will go away, can be divided and will lose interest then not attend the next meeting. Everyone has made an effort to accommodate this meeting and disrespects the neighbors plan and the neighbors businesses and activities in the neighborhood to continue this. Mr. Jamieson personally requests the Board to adjudicate on this matter. There are fundamental problems with this request and he does not want to lie awake at night for the next two weeks.

Mr. Henke stated that today is Mr. Tidwell's last meeting and is glad everyone showed up today to wish him well and thank him on his long and distinguished service to the Board for the last ten years. Mr. Henke stated that Ms. Snyder will need to recuse herself in this case, and Mr. Tidwell would be recusing today if the case is heard. There will be a new Board member who will be confirmed on Thursday, so at the next meeting there would be four Board members who could adjudicate rather than three. Mr. Henke is mentioning this as a way of information.

Jim Cameron, Chairman of the Board of Indian Health Care Resource Center, 11723 South Erie Avenue, Tulsa, OK; stated that 20 years ago when Indian Health Care wanted to relocate and demolish Longfellow School there was tremendous opposition, just as there is now. The entire neighborhood was fearful that bringing 15,000 Indians to the corner of 6th and Peoria for health care would devastate the neighborhood. It did not happen. He would encourage the Board to continue and give everyone the opportunity to be heard. This is a huge decision. Big decisions need to be thought through very carefully and very thoroughly.

Stuart McDaniel, 628 East 3rd Street, Tulsa, OK; stated he also owns property at 632 East 3rd Street, which is directly down the street from the subject property. Mr. McDaniel strongly urges the Board to allow this case to be heard today. One or two Board members recusing themselves do not matter; the case facts do not change. The applicant did this without proper notice. They did not engage the neighborhood. They are quoted on trying to be good neighbors; good neighbors notify the neighborhood associations immediately within the district and the adjacent community. An inappropriate e-mail went out from the group at the Indian Health Services acting as if the entire Pearl District approved of the proposal. It was inappropriate. It was unethical. This is obviously that has a political power play behind it. It has people with more strings and more pull, and allowing it to continue will only encourage the things that are being done to sneak this through. The applicant tried and failed. This group is here to represent those against this proposal. The Board is wasting the neighbor's time by continuing this case. Not only to Tuesday the 8th, but to Tuesday of next week. This whole group has to come in to listen to them give their spiel that they are going to present in a little bit, and then the neighbors will have to come back to argue their case again then file an appeal. So all the Board is doing is delaying. It is the applicant's motives not the neighbors. The neighbors are here, they are prepared with seven days notice, the neighbors are willing to speak and ask the Board to hear the neighbors speak. The applicant filed for this date. They were prepared to present their case on this date, let's hear it.

Shane Saunders, 427 South Boston, #706, Tulsa, OK; stated he is confused by what Mr. McDaniel had to say. On one hand the applicant is trying to sneak something by, or on the other hand the case is unnecessarily being delayed. It cannot be both. At the different outreach meetings Iron Gate tried to get input from interested stakeholders, and they thought they had made a good faith effort of contacting those involved. It has become apparent, based on the crowd today, that Iron Gate did not have the opportunity to speak to everybody involved. Iron Gate is serious when they say they

want to be good neighbors. There has been a lot of misinformation regarding this application circulated. Iron Gate would like to have the opportunity to clear up the confusion. They would like to have the opportunity to hear what concerns the neighbors have. They would like to have the opportunity to address those concerns. Mr. Saunders stated that in the Pearl District, the 74120 zip code, there are 380 registered pantry guests. He would like for the neighbors to have the opportunity to meet with the Iron Gate guests and talk about things before any action is considered. There are interested stakeholders on both sides of the issue, some of which have not had the opportunity to meet and confer with Iron Gate or their neighbors. Iron Gate would like to have the time to allow that to happen.

Matt Jones, 415 South Owasso, Tulsa, OK; stated he was one of the 28 labels that was mailed a notice within 300 feet. He called a couple of his friends that are in the Pearl and asked if they had heard about the application. No one knew about the application. He has been involved in the Pearl and with the plan, and someone should have known. He feels deceived even though he was notified but it was because he was within the 300 feet; he would not have known if he had been 301 feet. He thinks it was fortunate that there were only 28 people that were notified. Everyone is here. Everyone is ready. He would ask the Board to hear them today.

Julian Morgan, 418 South Peoria Avenue, Tulsa, OK; stated she is very close to the subject property. Her feelings on this application will not change after today. She has been very stressed about this for an entire week and she would like a decision to be made today.

Mr. Van De Wiele stated that he will move that the Board now go into discussion.

Comments and Questions:

Mr. Van De Wiele stated there has been this type of situation before, where one side or the other or both is requesting a continuance, and sometimes the Board is forced to continue a case. He has no doubt that the grand majority of the attendees are not going to change their mind. If that were the only reason for a continuance he would probably vote against it. The fact that Mike will be replaced in two weeks, to him, is the compelling reason from a justice stand point an opportunity to be heard he thinks the Board as a representative of the City has an obligation to everyone to have as much Board participation on any application as possible. It is very rare that there is a decision is made just by three Board members. Mr. Van De Wiele wanted the people to know that because two Board members are recusing there still needs to have a 3-0 vote to pass. It does not fall to a 2-1 majority, it still has to be a 3-0 vote to pass. That is great for the people that are against the application. It is terrible for Mr. Rosser and his client. What is right and fair from a hearing standpoint Mr. Van De Wiele thinks the case needs to be continued to the next meeting. But with that being said, there were several e-mails from neighbors that are appearing to be against the application but say they want to meet with Iron Gate. Mr. Van De Wiele stated he would support a continuance.

Mr. White stated that since he has been on the Board, the Board has traditionally honored requests, particularly a first request, for a continuance as a matter of courtesy. There are no written rules; it is just a matter of practice. The Board has also honored it for the opposition. It works both ways. Mr. White stated that he agrees with Mr. Van De Wiele, particularly because a multitude of the e-mails and letters, state a request for more information. The opportunity is there for the neighbors to receive more information by attending the September 1st meeting.

Mr. Van De Wiele stated, that just to be clear for those who concerned about something underhanded or sneaky by Mr. Rosser, he believes the notion of a continuance may have started amongst conversations between Board members and staff knowing that there would be one or two recuse, and Mr. Tidwell being replaced in two weeks. He thinks that is the primary driver for the last minute nature of Mr. Rosser's request.

Mr. Henke stated that he agrees with Mr. White and Mr. Van De Wiele. Mr. Henke thinks the Board will continue the case but he wants to be clear for the next meeting for those who can attend, in situations where there is overwhelming support and opposition the Board will limit comments from both sides to 45 minutes and then the Board will go into discussion and rule on the case. Mr. Henke informed Mr. Rosser, so that he is aware and can organize his presentation, and also to the supporters of the project he (Mr. Rosser) can allocate his presentation, comments, and rebuttal. To those who are against the project you will have 45 minutes to divide your time and get organized. This will allow for an orderly meeting and it will save everyone's time.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-2 (Henke, Van De Wiele, White "aye"; no "nays"; Snyder, Tidwell "abstentions"; none absent) to **CONTINUE** the request for a **Special Exception** to permit a soup kitchen and grocery pantry (Use Unit 5) in the IM District (Section 901); **Special Exception** to permit required parking on a lot other than the lot containing the principal use (Section 1301.D); **Variance** to reduce the building setback requirement from the centerline of South Peoria Avenue to 50 feet; **Variance** to reduce the building setback requirement from the centerline of East 3rd Street South to 50 feet; **Variance** to reduce the building setback requirement from the centerline of East 4th Street South/South Owasso Avenue to 35 feet (Section 903) to the Board of Adjustment meeting on September 8, 2015; for the following property:

PRT LTS 1 THRU 10 & LT 16 & PRT VAC ALLEY BETWEEN SL OF LTS 1 THRU 5 & NL LT 16 BEG 20S & 20W NEC LT 1 TH W154.30 SW99.61 SE241.50 N172.36 POB BLK 18, BERRY ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Ms. Snyder and Mr. Tidwell re-entered the meeting at 1:30 P.M.

UNFINISHED BUSINESS

21913—Peter Kroner

Action Requested:

Variance to exceed the permitted height of 10 feet at the top of the top plate for a detached garage; Variance to exceed one story in height (Section 210.B.5).

LOCATION: 1215 East 20th Street South (CD 4)

Presentation:

Weldon Bowman, W Design, 815 East 3rd Street, Suite C, Tulsa, OK; stated this is for a new detached accessory structure on the northwest corner of the property. The old existing garage will be razed. The new building will be almost the same size as the older structure and it the new will be in the same location. The lower level is 600 square feet.

Mr. White asked Mr. Bowman if the neighbors to the north and to the west have given their blessing to the project. Mr. Bowman stated that he has not heard anything from the neighbors.

Mr. Van De Wiele asked Mr. Bowman about the three other existing garages. Mr. Bowman stated that they are all together and are six inches apart as far as the roofs. The garage to the north is a two-story structure and the one to the west is a one-story detached structure.

Mr. Bowman stated there are no windows on the north side of the building and there is one window that looks out to the west that views the roof of the detached neighboring garage. The building is under 18 feet and the dormers are 15 feet above finished grade. The overall plate is at 10 feet. The building will not be sublet or leased. The homeowners have a teenage daughter who has to live at home and that is the purpose of the proposed detached garage with living quarters. This will allow her to still live at home and have some independence. There is no kitchen range or cooktop but it does have a small kitchenette.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to exceed the permitted height of 10 feet at the top of the top plate for a detached garage; Variance to exceed one story in height (Section 210.B.5),

subject to conceptual plan 2.10 for the location and conceptual plan 2.12 for the height. The Board has found the garage to be constructed is generally in the same footprint and location as the garage to be demolished. There are other two-story garages in the vicinity and this is in keeping with the character and context of the neighborhood. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the 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 6 BLK 3, MAPLE HGTS ADDN. CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21928—Will Wilkens

Action Requested:

Special Exception to allow a duplex use in the RS-4 District (Section 401, Table 1);

Variance of the front yard setback from 20 feet to 14 feet (Section 403, Table 3);

Variance of the side yard setback from 15 feet to 5 feet (Section 403.A.5);

Variance from the stated Bulk and Area requirements in Section 404.C.1, 2 & 4.

LOCATION: 1024 North Denver Avenue West (CD 1)

Presentation:

William Wilkens, 615 North Cheyenne Avenue, Tulsa, OK; stated this request is for a corner lot on the southwest corner of Denver and Latimer. It is a non-conforming lot given the RS-4 restrictions. The overall width is 45 feet and in the RS-4 there is a 15 foot setback from the side street of Latimer which abuts a pedestrian bridge. This case passed through the Tulsa Preservation Commission (TPC) with overwhelming approval last week. There are prevailing duplexes within the neighborhood. This proposed duplex has been designed to conform to TPC standards.

Interested Parties:

Robert Getchell, 100 West 5th Street, Suite 1100, Tulsa, OK; stated he represents Mr. and Mrs. Randall Davis, who own the property immediately to the north of the subject property, and other home owners whose names were submitted to the Board. The neighbors oppose this application on a number of grounds. He has not heard anything other than what the plans are for the subject property. There has been no evidence or statements by the applicant to show why a Special Exception should be granted. Should a Special Exception be granted why should there be four separate Variances granted to allow this project to go forward. In order to grant the Special Exception the Board must find that the Special Exception would be in harmony with the spirit and the intent of the Code and not injurious to the neighborhood. This property is within the Brady Heights historic district. The Brady Heights new construction guidelines, which

are part of the Code, state that new construction should be single family homes. There is no mention of duplexes. In addition, even if the project can get past the initial hurdle as to a Special Exception being granted, this project would require four separate Variances. One, a minimum lot area decrease from the 9,000 square feet required under the Code to 6,255 square feet which is a 30% reduction. It would require a reduction of the minimum land area from 5,000 square feet to 3,127 square feet which is almost a 38% decrease. It requires a reduction of the livability requirements from 2,500 square feet to 2,000 square feet which is a 20% reduction. It requires a front yard setback reduction from 20 feet to 11 feet which is a 45% reduction. And the side yard would go from 15 feet to under 5 feet which is a 67% reduction. Based on the sheer number of Variances required and the extent to which the requirements are being varied, he would submit this is not an appropriate application to be approved by this Board. The standard for granting a Variance is that because of extraordinary or exceptional conditions that are peculiar to this particular piece of property that the building the literal enforcing of the terms of the Code would result in an unnecessary hardship. There is no hardship if the applicant were to build a single family house consistent with what is in the immediate vicinity of the subject property. None of the Variances would be required. This is a self-imposed hardship strictly for purposes of trying to maximize the economic return for the subject property, which is not an appropriate hardship under the Code. For that reason he asks the application be denied.

Rebuttal:

Mr. William Wilkens came forward. He appreciates the concerns that were brought up, however, he would like to point out that in the historic preservation overlay district Variances are quite common especially from the current Code. The Tulsa Preservation Commission has say on scale, setbacks, the right-of-way, etc. and that is the process he has gone through. The neighborhood does have a representative on the TPC through the subcommittee. Mr. Wilkens stated that he has not been contacted by anybody regarding any additional questions on the project. As for the number of Variances, because this is an original historic neighborhood, setbacks were very different in 1915 to 1930 than what they are today under present Code. By the TPC's own mandate he is required to design and conform to those and it was done with TPC's full knowledge and full approval of the plans. Mr. Wilkens believes this project is in conformance with the Code especially with PlanItTulsa and the need for more comprehensive infill development and higher density within the urban neighborhood surrounding the downtown core. The universal design guidelines were followed in relation to single family versus a duplex and that is governed by TPC. There are existing duplexes in the neighborhood that was a social and economic fabric of the neighborhood when it was originally designed and built.

Mr. Van De Wiele asked Mr. Wilkens the nearest duplexes are to the subject property. Mr. Wilkens stated there are two four-plex units directly across the street to the west. There is a multi-use building one-half block to the east that is commercial downstairs and two residential units upstairs. Within the TPC package there are multiple examples of existing duplexes in the area. The request for Variances goes back to matching

historic sidewalk setbacks and front yard setbacks. He was, in fact, required to pull the front yard setback up to match porches of existing houses on the street, and it was approved by TPC. The small nature of the lot also necessitates the Variances.

Mr. Van De Wiele asked Mr. Wilkens if he had split the lot. Mr. Wilkens stated that he had not.

Mr. Van De Wiele asked Mr. Wilkens what was built on the lot originally. Mr. Wilkens stated that the lot has been vacant for quite some time and he bought it as a vacant lot. He understands that the subject property has been vacant for about 15 years.

Comments and Questions:

Ms. Snyder stated that the Tulsa Preservation Commission has a rigid standard of review for projects. The reason for the Variances is because originally the neighborhood did not have this Code. The Tulsa Preservation Commission required the applicant to match the front setback and maintain the pattern and rhythm of the side yard setbacks. The fact that there are other duplexes and multi-family units in the area in this historic neighborhood shows that was how the neighborhood was developed.

Mr. Van De Wiele stated there is other property in the neighborhood that has this same use is compelling. It is a smaller lot and the front and side yard setbacks are something that this Board routinely grants to match the character of the neighborhood. This will not be an oddball out of place looking structure. The design presented looks like it will match the neighborhood. Mr. Van De Wiele stated he can support this request.

Mr. Tidwell agrees with Ms. Snyder. The Tulsa Preservation Commission has strict guidelines and they have approved this project so he will support the request.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a duplex use in the RS-4 District (Section 401, Table 1); Variance of the front yard setback from 20 feet to 14 feet (Section 403, Table 3); Variance of the side yard setback from 15 feet to 5 feet (Section 403.A.5); Variance from the stated Bulk and Area requirements in Section 404.C.1, 2 & 4, subject to conceptual plans 3.10, 3.11 and 3.12. Finding that the historic status of the neighborhood required approval of the Tulsa Preservation Commission and they have taken into account the other existing buildings in the neighborhood and the setbacks, and they did ultimately approve such and the Board finds they are in agreement with these conditions and circumstances that 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. 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 1 BLK 7, BURGESS HILL ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21932—Steve Hahn

Action Requested:

Variance to allow an electronic message center within 200 feet of an R District (Section 1221.C.2.c). **LOCATION:** 902 South Sheridan Road East **(CD 5)**

Presentation:

The applicant was not present. The Board moved this case to the end of the agenda.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required at this time.

Mr. Tidwell left the meeting at 2:00 P.M.

Ms. Miller left the meeting at 2:00 P.M.

NEW APPLICATIONS

21939—John Sanford

Action Requested:

Special Exception to permit a hotel (Use Unit 19) in the IL District (Section 901, Table 1). **LOCATION:** 18715 East Admiral Place North **(CD 6)**

Presentation:

John Sanford, 9726 East 42nd Street, Suite 159, Tulsa, OK; stated the use requested today will be similar to the use next door which is a Holiday Inn Express hotel.

Mr. Van De Wiele asked Mr. Sanford what was on the property to the west of the subject property. Mr. Sanford stated there a couple of smaller commercial businesses.

Mr. Sanford stated that he has found out that the projects on the east and west were permitted and built there were a lot of things that were not done correctly. The Fire Marshal asked him about the Holiday Inn was approved when there is only a nine foot wide fire truck access around the hotel. Mr. Sanford stated he has 26 foot wide fire truck access designed all around the proposed building. Mr. Sanford stated that the neighbors to the west were supposed to have more water retention on their property than was built, and now he needs to add more water retention on his side to compensate for that. Mr. Sanford stated the City asked him how that happened.

Mr. Tidwell re-entered the meeting at 2:06 P.M.

Ms. Miller re-entered the meeting at 2:06 P.M.

Mr. Sanford stated that he wants to be a good neighbor and thinks it will be a benefit to the area and requests approval of his request.

Mr. White stated that a letter was received from Oklahoma Department of Transportation (ODOT) stating there is a 20 foot utility easement on the north side of the subject property. Mr. Sanford stated that he is aware of the easement, and they are way off the property line.

Interested Parties:

Jim Kuykendall, 18811 East Admiral Place, Tulsa, OK; stated he owns the business on Admiral Place. Mr. Kuykendall stated that there has been overall disrespect from the applicant for the City of Tulsa process from the beginning. The applicant attempted to get the project approved under a minor subdivision plat which did not fit and his engineer did not understand how that would get passed. At the last Tulsa Metropolitan Area Planning Commission the plat request was removed and sent back to Development Services. The applicant began moving dirt on the subject property approximately 90 days ago, and threw rocks and boulders onto his property. There was no silt fence was in place and the silt fence that is place now is in disrepair. Mr. Kuykendall stated that he has met with the owners several times, and they act like they do not understand what is being said. The applicant has silted in Mr. Bogard's \$650,000 under ground stormwater detention facility. The City has said they will inspect it with cameras and do what needs to be done. The applicant has excavated onto his the property to the west for storm sewer. Mr. Kuykendall stated that he called the applicant's attention to it and now it has sat there for over a month. The weeds are tall because there has been no one on the site in several weeks. Mr. Kuykendall stated the applicant has an overall disrespect and now they are before this Board for a Special Exception, and they just assume the Board will grant it because they have spent a lot of money to have the hotel designed.

Rebuttal:

John Sanford came forward and stated the construction business is not fine art. There are mistakes made in the construction business and he is not perfect. Mr. Sanford stated he is going to be a good neighbor. He did not violate any laws or cut any corners. He received an underground permit from the City of Tulsa. When he initially started this process INCOG told him he could build a hotel without going through this process. After he went to INCOG they decided they did not want a spot zoning change, they wanted everything in the subject area to be zoned IL. That is why he is before the Board today to receive a Special Exception. The subject property has sat idle for a long time. There are electric lines that need to be moved and he has made some mistakes. But because of the mistakes that were made in the past the City is really monitoring this project. Some of the issues will be corrected and he hopes to move ahead because he wants to be a good neighbor.

Jim Kuykendall came forward and stated the reason the project has been stopped is because the City of Tulsa has realized that the applicant has to go through the platting process just as everyone else did. It is time consuming. It is very expensive. The people in the area do not like it but it is needed to be done, i.e., the detention ponds. This applicant has just started like they don't need any permits, and now they are finding out the hoops and hurdles they have to go through. Mr. Kuykendall believes the applicant is trying to cut every corner that he possible can. There is not even the required construction culvert on the property. Mr. Kuykendall stated that he had to move his own electric line at his expense; the City said they would move it but they did not.

Mr. John Sanford came forward and stated that he is not cutting corners. He has received the correct permits and he has gone through the City of Tulsa. Initially when the planning of the hotel was started the City was going to issue all the permits, but he did not know the platting was going to take this long. He is the one spending extra money to have extra detention on the site because the neighbors to the west do not have enough detention. Mr. Van De Wiele stated that this Board does not deal with stormwater detention. Mr. Sanford stated the City is monitoring him because of the mistakes that were made on each side of the subject property.

Comments and Questions:

Mr. Van De Wiele stated that from a use standpoint this project makes sense because there is a hotel next door so the Board cannot say it would be detrimental.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to permit a hotel (Use Unit 19) in the IL District (Section 901, Table 1), subject to conceptual plan 7.10. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**BEG 454.6W NEC LT 2 TH W185.17 & S701.25 E185.17 N701.25 POB SEC 01 19 14
2.89ACS, BRIGHT INDUSTRIAL PARK, ROLLING HILLS THIRD ADDN, BOGART
CENTER, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

21940—Maria Oropreza

Action Requested:

Special Exception to permit auto sales and repair in the CS District (Use Unit 17) (Section 701, Table 1); Variance to allow outdoor storage of merchandise for sale within 300 feet of the adjoining R District (Section 1217). **LOCATION:** 13151 East 11th Street (CD 6)

Presentation:

Maria Oropreza, 4913 South 190th East Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Ms. Miller stated there is a letter from Councilor Dodson that was received late today stating she is opposed to the request.

Mr. Henke asked Ms. Oropreza if she was only going to be storing the vehicles for sale outside. Mr. Oropreza answered affirmatively.

Mr. Van De Wiele asked Ms. Oropreza how many vehicles there would be at any one time for sale on the subject property. Ms. Oropreza stated there would be 20.

Mr. Tidwell asked if there would be any tires or wheels stored outside. Ms. Oropreza stated there would not be any tires or wheels stored outside.

Mr. Henke asked Ms. Oropreza if there would be any parts stored outside. Ms. Oropreza stated there would not be any parts, just the operable vehicles.

Mr. White asked Ms. Oropreza what type of repairs would be made on the subject property. Ms. Oropreza stated that it would be repairs just on the vehicles that are for sale.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit auto sales and repair in the CS District (Use Unit 17)

(Section 701, Table 1); Variance to allow outdoor storage of merchandise for sale within 300 feet of the adjoining R District (Section 1217), subject to "as built" on page 8.14. The building will not be expanded upon and the Special Exception will be for a period of three years from the date of this meeting, August 25, 2018. The Board has found that this application is in keeping with the area and that there is a similar business directly across the street to the south. The residential zoned property to the east is vacant and it is questionable whether it is developable because of the limestone shelf that exists under the property. The outside storage will consist only of operable vehicles for sale and limited to 20 vehicles at any one time. 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 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:

**PRT SW SW BEG SECR SW SW TH N359.69 W80 S159.76 W52 S200 E132 POB
SEC 4 19 14 .90AC, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

Mr. Henke left the meeting at 2:24 P.M.

Mr. White recused at 2:24 P.M.

21941—Adam McGaughey

Action Requested:

Variance to reduce the required parking to 2 spaces to permit expansion of studio/office space (Section 1211.D). **LOCATION:** 2212 East Admiral Boulevard North (CD 4)

Mr. Henke re-entered the meeting at 2:26 P.M.

Presentation:

Ed Sharrer, Executive Director of Kendall Whittier Main Street, 2318 East Admiral Boulevard, Tulsa, OK; stated this is a property owner with a 3,500 square foot building and he is adding a 235 square foot addition on the rear. He must rebuild a couple of walls that are falling in and that now requires him to have three spaces instead of two. The property owners are not a major corporation or a large business, but it is a married couple in the business. Mr. Sharrer had photos placed on the overhead projector to explain the property. The building is used as an artist studio and plans to lease the

remaining third of the building to another artist. The south and west walls are falling down because of being in incredibly poor condition. The owner is going to reinforce the footing and rebuild the walls. During the rebuilding process he would like to add the small addition to the rear for a future planning space and a small courtyard in the rear. There is ample on-street parking immediately across the street from the subject property. The owner is not changing the use and is not adding any intensity. Mr. Sharrer hopes the Board will find it appropriate to approve the request for the subject property in the urban setting.

Mr. Van De Wiele asked Mr. Sharrer how far the subject property was from the public parking. Mr. Sharrer stated it is approximately a block and a half to the public parking lot that is to the west.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-1 (Henke, Snyder, Tidwell, Van De Wiele "aye"; no "nays"; White "abstaining"; none absent) to **APPROVE** the request for a Variance to reduce the required parking to 2 spaces to permit expansion of studio/office space (Section 1211.D), subject to conceptual plan 9.11. The property owner has two existing on-street parking spaces on the property and is in the immediate vicinity of an ample public surface lot and on-street parking making the need for additional parking on this parcel that is almost entirely consumed by the building an impossibility. 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:

E50 OF EA LTS 15 16 BLK 21, GILLETTE-HALL ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. White re-entered the meeting at 2:31 P.M.

21947–Davies Architects – Judd Webb

Action Requested:

Minor Special Exception to reduce the required front yard from 30 feet to 25 feet to permit a covered porch addition (Section 403). **LOCATION:** 1612 East 36th Court South (CD 9)

Presentation:

Judd Webb, 1820 South Boulder, Suite 400, Tulsa, OK; stated he represents the homeowner who is adding a porch addition to the front of their house. The existing setback for their front yard is 30 feet and the request is for a five foot reduction. The northeast corner is the only part of the addition that interferes with the setback. The porch is an eight foot addition and the five foot reduction will allow a good size porch to be added. The house sits on the peak of the bend of the street.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Minor Special Exception to reduce the required front yard from 30 feet to 25 feet to permit a covered porch addition (Section 403), subject to conceptual plan 11.9. 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:

PT 12 & 13 A TRI IN LOT 12 BG SEC N 5' SW 28.33' E 29.66' TO BG & LOT 13 LESS A TRI BG NWC E 88.33' SW 84.1' N 15' TB BK 8, WOODLAND HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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OTHER BUSINESS

21933—Kevin Vanover

Action Requested:

Request approval of Parking Compliance Plan for the school parking imposed by the Board at the August 11, 2015 meeting. **LOCATION:** 2906 East 41st Street South (CD 9)

Presentation:

Kevin Vanover, 109 North Birch Street, Owasso, OK; Mr. Vanover deferred to Mr. Chris Hudgins with the Tulsa Public Schools for the presentation.

Interested Parties:

Chris Hudgins, Tulsa Public Schools, 3027 South New Haven, Tulsa, OK; stated he met with the staff and they came up with four items to address the parking issues on South Florence. The item is dealing with the notification of the parents. The school has sent out an auto-dial e-mail to parent notification reminding them that there is no on-street parking on Florence, that it is a parking violation, and that the City of Tulsa Police will be notified and violators will be subject to being ticketed. The second item addressed is the notification of students and their parents with a letter concerning the issue. The third item is that the school will provide a 24-hour security number for the in-house police department, thus allowing the school to notify the Tulsa Police Department (TPD) of the violations. The fourth item is that the school will hire one additional security guard for all large events, such as varsity basketball games, and the guard will be on duty one hour prior to the event starting to assist in traffic control related to the parking, and help enforce the no parking zone along the street.

Mr. Henke stated that Tulsa Public Schools (TPS) representatives have been before this Board on a number of projects in the past, two of them most recently are tied to Edison High School. A little over a year ago Tulsa Public Schools said they would provide a telephone number which is similar to what is being offered today. There is either a miscommunication or communication was not making it through to the necessary parties, but there were parking issues then. Mr. Vanover was at the last meeting but it is really Tulsa Public Schools responsibility to answer the questions, and show that it is a priority to be a good neighbor with the granted relief. This Board has received assurances from Tulsa Public Schools that this was a top priority and for whatever reason things have fell through the cracks. There is almost an element, or consistency, that the issues have not been addressed. Mr. Henke appreciates the letter but he wants to make sure it is a top priority to the school, because it has really impacted the nearby neighbors.

Mr. Hudgins stated that Chief Swain could not be in attendance today due to an emergency, but the school has made a commitment. The school is offering a 24-hour call-in for the TPS Police. That will be a priority that the TPS Police will take the calls and then turn around and call TPD to notify them of the violation.

Mr. Van De Wiele asked Mr. Hudgins when school started. Mr. Hudgins stated that school started last Thursday. Mr. Van De Wiele asked Mr. Hudgins when the auto-dial and the auto e-mail were going to go out. Mr. Hudgins stated that he spoke with the Principal and it was to go out the first week of school but he will need to verify that it has been done.

Mr. Van De Wiele asked Mr. Hudgins how the school was going to provide the 24-hour contact number to the neighbors that is in bullet point number three. Mr. Hudgins stated the school could do a mailing.

Mr. Henke stated that the school could mail out the letter to any landowner within 300 feet and provide a copy of the same letter to INCOG staff so it can be in the file as well.

Mr. White stated that the security guard for the large events would need to be a Police Officer or a TPS Officer because security guards have no authority on the streets.

Mr. Henke asked Mr. Hudgins if he was thinking about adding one of the TPS Police to patrol the area. Mr. Hudgins answered affirmatively, and stated that it would be one of the school's security guards that are typically hired. Mr. White stated the person would need to be commissioned as a police officer not a security guard in order to have any authority on the street.

Mr. Henke asked Mr. Hudgins if he was agreeable to that change. Mr. Hudgins stated that he did not think he had a problem with it, but he does not work with that department on a daily basis but he will take that recommendation. Mr. Henke stated that the Board will make that as a requirement on the approval of the plan that was submitted today.

Mr. Tidwell asked Mr. Hudgins if the neighbors were notified with the mass e-mail or are the parents the only people notified. Mr. Hudgins stated the mass e-mail notifies just the parents, so what the school will do is provide another mail out with the 24-hour telephone number to any resident within 300 feet.

Mr. Henke stated this means that the school is communicating to the students and to the parents, and then they will have a separate letter going to any property owner within 300 feet that provides them with a 24-hour hotline number and an e-mail address so the neighbors can send e-mails too because it is timed, date stamped, and shows that the neighbor has reached out to the school.

Jon McGrath, 4139 South Florence Avenue, Tulsa, OK; stated the neighbors will appreciate the increased communication, and the result that the order that both parties agreed to be that TPS Police will enforce in front of the school. Additionally, when a neighboring resident calls he understands that TPS wants to hand that over to the TPD. That being the case, what is the TPS Police force for because these are school issues.

Mr. Van De Wiele asked if the TPS Police had power to issue a ticket. Mr. Henke stated that at the meeting a year ago it was stated that they did have the authority to ticket. Mr. White stated that the TPS Police are CLEET certified police officers and the City of Tulsa has extended to them the police powers commensurate with a TPD officer so they can have that around the schools.

Mr. McGrath stated that earlier this year, because the traffic is so bad where they continue to park in the no parking zone and cannot get down the street the resident's

yards were trenched. They notified the TPS Police Department and they said they were going to dispatch the Tulsa Police which never occur and there was no follow-up. Now there is an element of damage introduced. There is not only a safety issue but it continues to grow to additional issues.

Mr. White stated that an explanation to that situation is that perhaps when the yard was being trenched it was getting onto private property off the public streets, off the school property and that is where the TPS felt they should transfer the responsibility over to TPD.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the Parking Compliance Plan for the school parking imposed by this Board at the August 11, 2015 meeting, subject to the following revisions to that plan:

- Edison Administrative Staff will use the school auto-dial and auto e-mail parent notification systems to inform parents no later than August 31, 2015 that street parking on Florence is a parking violation and that the Tulsa Public School Campus Police will be notified and violaters are subject to be ticketed
- Edison Administrative Staff will provide students with a letter notifying them and their parents no later than August 31, 2015 that street parking on Florence is a parking violation and that the Tulsa Public School Campus Police will be notified and violaters are subject to being ticketed
- Tulsa Public Schools will provide neighboring property owners with 300 feet of the Edison property with the District’s 24-hour security department telephone number and e-mail address by August 31, 2015 which can be used to notify the District of violations; upon receiving such calls District security staff will take appropriate action including ticketing and/or towing of the parking violations
- Tulsa Public Schools will hire one additional Tulsa Public Schools Campus Police Officer or Tulsa Police Department Officer for all large events, such as varsity basketball games; that Officer will be on duty at least one hour prior to the event to assist in traffic control related to parking and to help enforce the no parking zone along Florence; for the following property:

NW NE SEC 29-19-13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

21932—Steve Hahn

Action Requested:

Variance to allow an electronic message center within 200 feet of an R District (Section 1221.C.2.c). **LOCATION:** 902 South Sheridan Road East (CD 5)

Presentation:

The applicant was not present.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Snyder, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **CONTINUE** the request for a Variance to allow an electronic message center within 200 feet of an R District (Section 1221.C.2.c) to the Board of Adjustment meeting on September 8, 2015; for the following property:

**PRT BLK 60 BEG NEC TH SW153.20 S150 E150 N178.07 POB .56AC,
GLENHAVEN. CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

This is Mr. Michael Tidwell’s last meeting as a member of the Board of Adjustment. Mr. Henke presented Mr. Tidwell a Certificate of Appreciation for his ten years of dedicated service.

There being no further business, the meeting adjourned at 2:57 p.m.

Date approved: 9/18/15

Frank X. Harris, Jr.

Chair