

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1148
Tuesday, September 22, 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 Flanagan Snyder 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 Thursday, September 17, 2015, at 11:12 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 **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, VanDeWiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the September 8, 2015 Board of Adjustment meeting (No. 1147).

UNFINISHED BUSINESS

21937—Barrick Rosenbaum

Action Requested:

Variance of all Bulk and Area Requirements in the RS-1 District to permit a lot-split (Section 403, Table 3). **LOCATION:** 3908 South Evanston Avenue **(CD 9)**

Presentation:

The applicant has requested a continuance to October 13, 2015. The applicant has obtained additional information and need time to prepare the information.

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, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **CONTINUE** the request for a Variance of all Bulk and Area Requirements in the RS-1 District to permit a lot-split (Section 403, Table 3) to the Board of Adjustment meeting on October 13, 2015; for the following property:

LT 10 BK 25, Ranch Acres Blocks 19-25, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21953—Eller & Detrich – Lou Reynolds

Action Requested:

Modification of a previously approved site plan (BOA-13218) to permit expansion of an existing church. **LOCATION:** 3819 South Lewis Avenue East **(CD 9)**

Presentation:

Lou Reynolds, 2727 East 21st Street, Suite #200, Tulsa, OK; stated he has had a couple of public meetings with the neighborhood. Mr. Reynolds does not think the discussions with the neighbors are far enough along to bring this to the Board for a decision, therefore, he is requesting a continuance to the meeting on October 27, 2015.

Interested Parties:

There were interested parties present and they did not object to the request for a continuance.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **CONTINUE** the request for a Modification of a previously approved site plan (BOA-13218) to permit expansion

of an existing church to the Board of Adjustment meeting on October 27, 2015; for the following property:

PRT SW SW BEG 457.5E & 25S NWC SW SW TH S169 W457.45 S305 E522.96 N305 W33.11 N169 W32.5 POB SEC 20 19 13 3.76AC, SOUTH LEWIS HILL ADDN, BROADMOAR ADDN, HIGHLAND PARK EST., CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

21957—Sam Stokely

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2); Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 feet from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10). **LOCATION:** 2976 North Florence Avenue East (CD 1)

Presentation:

The applicant's has requested a continuance to October 13, 2015 because they need to request additional relief.

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, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Verification of the spacing requirement for an outdoor advertising sign of 1,200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2); Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 feet from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10) to the Board of Adjustment meeting on October 13, 2015; for the following property:

N75 LT 4 & ALL LT 5 BLK 3, SANTA FE INDUSTRIAL DISTRICT, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

UNFINISHED BUSINESS

Ms. Moyer stated the applicant's attorney in the next case on the agenda, Mr. David Dryer, BOA-21931, just came forward and requested a continuance to October 27, 2015. Mr. Henke stated the Board will hear from Mr. Dryer as to why he has requested a continuance.

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:

David Dryer, 5110 South Yale Avenue, Suite 430, Tulsa, OK; stated he is the attorney for the applicant and he is requesting a continuance to October 27, 2015 to allow time for discussion with the neighbors about some options. He would like to be able to show them screening options with a model and discuss alternate plans. He believes it would be beneficial to all the parties for the case to be continued. This case been continued in the past because of publication issues with the previous zoning ordinance.

Mr. Henke stated that the Board will hear from the interested parties regarding only the request for continuance.

Interested Parties:

Jennifer Weaver, 14343 East 12th Street, Tulsa, OK; stated she is here on her day off and she does not want to come back. She lives on the northwest corner of 12th Street and 145th. She did not receive notice for this hearing like she did from TMAPC previously. The corridor behind her is a mess. The neighbors do not want this kind of development. The neighbors want smart development. This continuance request is an inconvenience and she is against a continuance.

Judy Hogner, 14205 East 11th Street, Tulsa, OK; stated she is opposed to the car lot. They had a chance to speak at the meeting but there was no representative from the car lot in attendance.

Mr. Henke asked if she reached out to them about the meeting. Ms. Hogner stated that she did not because she did not know who to contact.

Steve Gates, 1202 South 145th East Avenue, Tulsa, OK; stated he lives about 250 feet from the subject property. He is against the request for a car lot. This is not a good thing for the neighborhood. The neighbors have taken time out of their day to hear this case and he does not think the applicant can come up with anything that is going to improve the lot. He has seen what is going on with the other car lot across the street. There is three acres packed full of cars that are on grass and he wishes someone from the City would investigate that car lot because it is a wretched mess. People have gone to the car lot to buy a vehicle and the people do not want to sell them. He and the neighbors want to have this case heard today and have it over with.

Debbie Waid, 14677 East 11th Place, Tulsa, OK; stated that this is the third time she has taken off work in the past few months to hear this case and get a decision made. She does not want to take off work again. She is totally opposed to this whole thing because she does not see how it will compliment the neighborhood. She does not want this case continued because she does not want to come back; she is losing time at work.

Eck Ruddick, 14673 East 11th Place, Tulsa, OK; stated this is the third or fourth delay the neighbors have seen from the applicant. There have been numerous meetings at the church that is very close to the subject property. The applicant is unknown to the neighbors until a few days ago and he has not made any effort to reach out to the neighbors. Each person here today is working and this is continued it means another day off work. This has been going on for about four months. This property is the neighborhood until about two months ago. It was zoned RS and it was brought to the neighborhood about changing the subject property to CS because someone wanted to develop it. The neighbors agreed because they know that the important thing in the area is Route 66. Councilor Dodson is all in favor of Route 66 development and the neighborhood is also, so the neighbors went along with the Councilor for the rezoning. Mr. Ruddick stated that given the number of people in attendance today everyone would like to hear the case.

Christy Boggs, 1127 South 157th East Avenue, Tulsa, OK; stated she is on the Board for the Tower Heights Association and she lives ½ mile from the subject property. She agrees with her neighbors, everyone has taken off work and they have scheduled their calendars for a month in advance to be in attendance. Everyone has worked very diligently to prepare for this meeting.

Kent Stahl, 14628 East 12th Street, Tulsa, OK; stated that this is third time he has taken off work to be in attendance to hear this case. He is totally opposed to the car lot because he does not think a car lot will be good for the neighborhood.

Connie Dodson, District 6 City Councilor, 175 East 2nd Street, Tulsa, OK; stated she would like to have this case heard today. Her schedule is busy and this case should be heard today.

Brian Engles, 14660 East 11th Place, Tulsa, OK; stated that he has two small children and he paid a substantial sum of money for his house. The area is a safe place and there are a lot of children in the neighborhood, and he finds no benefit in having a car lot on the subject property.

Rebuttal:

Mr. David Dryer came forward and stated that this is the first opportunity he has had to be before the Board. The matter being continued previously had to do with administrative rules and regulations concerning the publication of the Ordinance. He received a letter from a Council member of the City of Tulsa via e-mail last night that is opposed to the issue, and he thinks his client should have the opportunity for a continuance to address the issues with the neighbors before coming to the Board. Mr. Dryer stated that he did send a letter to a couple of the neighbors and he received no comments. His office is fully staffed and the office has received no call from the HOA, and he would be glad to speak with them. For the record, Mr. Dryer stated that he did not request the continuances. In the past it was continued due to administrative regulations. Today his request for a continuance is based on two things. One, the last minute letter received from the Councilor. Two, it is an opportunity to speak with the HOA and show them and discuss the plans for the project as opposed to having public input without benefit of seeing the planned use. The proposal is not going to be an unsightly used car lot. He would ask the Board to vote in favor of continuing this matter so there can be discussion to discuss the issues with the impacted home owners.

Mr. Van De Wiele asked Mr. Dryer why he is requesting a month's delay. Mr. Dryer stated that would give him an opportunity to speak with the neighborhood, and he does not know how long it would take to set a meeting with the HOA. The last thing he wants is to short cut the process.

Mr. White asked Mr. Dryer who his client is. Mr. Dryer stated that he has been an attorney for 24 years and he is the named applicant. All anyone had to do was call his office or send a letter to his office.

Ms. Miller stated that anyone could have sent a letter to INCOG also. In regards to the administrative issue, this rezoning to CS on the corner was approved City Council a few months ago and when the City Council approves an Ordinance it goes to the Mayor's office and it is then published. At that point in time, the City Clerk's office was going through a transition as far as the newspaper they were publishing in and it was delayed past the normal time for publishing the Ordinance. Once the Ordinance is published it is 30 days before it is effective. That time period extended a little further than normal and the applicant was caught up in that transition. Staff accepted this application thinking the Ordinance would move at a normal pace and it did not. That is why this application was continued or delayed. As for the neighbors, for the clarity there, Mr. Dryer is not

the property owner and the property owner took the application for the rezoning to the Planning Commission.

Mr. Van De Wiele asked Mr. Dryer if his client owned the property at this point. Mr. Dryer stated that he does. Ms. Miller asked if Mr. Will Wilkens was still the property owner. Mr. Dryer stated that Mr. Wilkens is the property owner. Ms. Miller stated that she recognizes some of the people in attendance today from the Planning Commission meeting so they are probably used to dealing with Mr. Will Wilkens.

Mr. Van De Wiele asked Ms. Miller if the rezoning was in anticipation of this application. Ms. Miller stated that she does not know that. When it is a straight zoning request it is not necessary to disclose what the anticipated use is. The by-right allowed use in CS does not include a car lot that is why it is before the Board. Mr. Van De Wiele asked Ms. Miller what the zoning would need to be to allow the car lot. Ms. Miller stated that she thought the zoning would be CG.

Mr. White asked what the lot was zoned previously. Ms. Miller stated that she did not have the history in front of her, but she thought it was commercial and about ten years ago a portion was rezoned to residential. Mr. Dryer stated that he did not have his file with him but he thinks that it was zoned so long ago that the zoning did not have a break down. Ms. Miller stated that the two end pieces of the subject property were rezoned recently and the very hard edge corner had the CS zoning all along. Mr. Dryer stated that the subject property borders a lot that is a PSO-AEP lot.

Councilor Connie Dodson came forward and had a map of the subject lot placed on the overhead projector. She stated that a number of years ago the main whole corner was zoned CS but not the two edge pieces. The two wings were rezoned for residential and the main corner remained CS. Just recently the CS zoning was applied for. Her comments to the neighborhood at that time was, in all likelihood she would not convince her entire council to not return the corner to CS or the buffer areas for the corners. However, CS primarily allows for retail development and that is what the neighborhood was hoping for. She finds it offensive that an applicant would request a CS zoning and then come to the BOA through the back door and request a Special Exception to allow a car lot when there is a commercial designation that could have been filed for allowing it by right. Ms. Dodson stated that she knows that was the plan because in the prior meeting she spoke to Will Wilkens personally, and he told her there was an offer in play on the subject property. They knew what they were doing and she would like to see it denied without a continuance.

Mr. David Dryer stated that he had no more comments.

Comments and Questions:

Ms. Snyder stated that she understands it was not the applicant's fault for the delays. She also understands how hard it is to take off work and she will have to vote against a continuance.

Mr. Van De Wiele stated that he agrees. He does not think that the letter from Councilor Dodson is much different than neighbors voicing objections. It does not raise issues separate and apart from what the neighborhood in general has been raised. Typically the Board is lenient in continuance requests but this has been going on quite a while. There has been plenty of time to meet with the neighbors regardless of whose burden it is to reach out for discussion. He thinks the person requesting the relief should take it upon themselves to reach out to the neighbors. INCOG has a list of home owner associations and addresses that can be accessed. He is prepared to hear this case today.

Mr. Flanagan stated that hearing from the neighborhood about all the days of lost wages and this has been going on for four months, so like he is prepared to hear the case today.

Mr. White stated that the Board rarely denies a first request for continuance. Obviously there are extenuating circumstances with the Ordinance. People have taken off work to be here today and it is not the first time they have done so and he is prepared to hear the case today.

Mr. Henke stated this is not a timely request for continuance.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **DENY** the request for a Continuance to the Board of Adjustment meeting on October 27, 2015; for the following property:

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

Mr. Henke announced that Case #BOA-21931 will be heard today by the Board.

Presentation:

David Dryer, 5110 South Yale Avenue, Suite #430, Tulsa, OK; stated this hearing is for the purpose of having either a new and/or used car lot sales lot on the subject property. The issue is what to do with the area along 11th Street. There is a plan between the current owner and the purchaser to reserve the area that does face 11th Street for CS for a small retail development. As the property lays out now, along 11th Street is an area where a used car facility could be in place with fencing and screening. The fence would be maintained by the subject property owner. The screening could be as dense as necessary. His client believes that this will not be injurious to the neighborhood. With proper shrouding of the lights a facility could be operated on the subject property. Now that the Ordinance is in place all of the area would need to be an all-weather surface. There are plans to have a nice office on site for the buying and selling

discussions. There are items that would be in place to protect the neighborhood at the time the permit is applied for. This will be all new construction with a new all-weather surface. This would be no different than a retail center, and a retail center would have more traffic than the proposed car lot. The proposed car lot will still be subject to the setbacks. Mr. Dryer stated that he believes his hardship is that in order to allocate the use of this property the Variance is necessary to fully utilize the property for the proposed project. The main area for the vehicles will face 11th Street so the impact to the neighborhood will be minimal. The site plan will be subject to continual review by the City of Tulsa and Code Enforcement. To classify this proposal as an old dilapidated used car facility does not reflect the proposal in its proper light. This is an opportunity to have a development on that corner that will not be injurious to the neighborhood. Impact on the surrounding area, with the proper screening, could be minimalized. Mr. Dryer stated that it is important to note that the subject property was commercial and was rezoned to residential then found that it was not effectual to do so therefore it was rezoned back to the original zoning of commercial. It has never been a residential corner. It is a viable corner.

Mr. Van De Wiele asked Mr. Dryer if he represented the current land owner or if he represented the purchaser. Mr. Dryer stated that he represents the current land owner. Mr. Van De Wiele asked Mr. Dryer how long the proposed purchaser been in the picture. Mr. Dryer stated that the proposed purchaser has been involved for about three months. Mr. Van De Wiele asked Mr. Dryer if the proposed purchaser predates the zoning change. Mr. Dryer stated that he did not think there was a contract in place at that time. Mr. Van De Wiele asked Mr. Dryer if there was discussions at that time. Mr. Dryer stated that he did not know. Mr. Van De Wiele asked Mr. Dryer why his client did not seek out the CG zoning rather than the CS zoning. Mr. Dryer stated that he thinks that they were unsure how the property was going to be utilized at that time. Mr. Van De Wiele stated that he is struggling with this application because what he hears with the hardship is that what is being proposed is that the project cannot be built as wanted unless the Board grants the relief, and that takes goes around in a circle. Mr. Van De Wiele stated if the property were zoned appropriately for the use that is wanted, and there was that opportunity to ask for the zoning that is really needed, the Board cannot allow an applicant to self-impose a hardship and then grant relief from that. He struggles with the fact that the client had the chance to request the proper zoning but is now before the Board for relief and how that is not self-imposed.

Mr. Dryer stated that he understands the issue there is that his client was unsure as to how they were going to build on the property. In the last negotiations between his client and the purchaser is that the purchaser may not need the entire tract. So his client was going to reserve the area that does not face 11th Street, and retain it for future retail development. Mr. Dryer stated that he is not fully convinced that there is a sinister plot by his client to achieve a lower zoning. The problem is a person purchases a property, works it up and an interested party says that he would like to "X" on the property but it was worked for "Y". That is where his client is today. If this is approved there will be a nice new facility on the property and a new hard all-weather surface.

Mr. Van De Wiele told Mr. Dryer that speaks to his position on whether it is injurious to the neighborhood in regards to the Special Exception for the use. But the Variance to display the cars is a different higher harder standard. The question is what is peculiar about the subject property. Mr. Dryer stated that it is a corner lot and it does have a uniqueness about it in that the lot next to it was purchased by PSO-AEP some time ago and from the communications that his client has had with PSO, they have the intent to use it for their needs so there will never be a house there. Therefore, with that in play, that provides a unique opportunity to utilize that area for the display thus allowing a Variance. Again, the cars will face 11th Street and the cars that will be there are going to be beside a lot that is held by a public utility.

Mr. White asked Mr. Dryer if the entire property as shown on the overhead projector is involved in the potential sale. Mr. Dryer stated it will be all or a portion. There are negotiations regarding the wing off 11th Street may reserved for future development by the current owner. Mr. Dryer stated that his thought is that if the Board said they wanted more of a buffer between the next property owner his client would retain that small wing portion and sell the balance of the property along 11th Street to the new purchaser for utilization of the car lot.

Mr. White asked Mr. Dryer if his client was Mr. Wilkens. Mr. Dryer answered affirmatively. Mr. White asked Mr. Dryer if Mr. Wilkens had converted several other properties along 11th Street into car lots. Mr. Dryer stated that he had no knowledge of that.

Interested Parties:

Connie Dodson, District 6 City Councilor, 175 East 2nd Street, Tulsa, OK; stated that Mr. Wilkens informed her during the zoning process that there was a buyer already in play on the subject property and that the offer was for \$90,000 for the entire property. Ms. Dodson would like to know who the potential purchaser of the subject property is under contract. Mr. Dryer stated that he does not have their authorization to disclose that information. Ms. Dodson stated that the biggest fear in the area is that it is the same car lot that has fallen in disrepair across the street which resembles more of a salvage than a car lot. She feels and the residents feel that everyone has been misled about this being a retail development which would further encourage retail development in line with the proposed outlet mall. As a car lot it appears to be more of a hinderance to future retail development. Retail development is something this area badly needs and everyone feels like the whole process is being circumvented through information that has been gained along the way.

Mr. Van De Wiele asked Ms. Dodson if it was her understanding that at the time the rezoning application was made that there was an understanding that this was intended to be a car lot all along. Ms. Dodson stated that it was the same potential purchaser that was in play and that conversation came about because she was discussing possibilities for the corner. She had shared with Mr. Wilkens that it would be nice to have a nice retail development along that street or a diner in the location. That is when Mr. Wilkens mentioned there was already a purchaser in play.

Jennifer Weaver, 14343 East 12th Street, Tulsa, OK; stated she had contact with him, going back to May 1st. On May 6th, the day of the meeting she had to leave and as she was leaving she asked Mr. Wilkens if he understood everyone's concerns. Mr. Wilkens stated that he understood and would pass them along to any purchaser/developer. Ms. Weaver stated that Mr. Wilkens knew what he was going to do, this was his plan all along. The end piece of the subject property is directly across from her property and they are proposing a building but they don't know exactly what they want to do. Ms. Weaver stated that Mr. Wilkens has her contact information and he could have reached out to her. She finds it interesting that Mr. Dryer states it will be new and/or used cars. How many new car lots take a piece of land like this? Who is going to sell new cars to people. Ms. Weaver stated that when Ms. Clayda Stead was on the Board she said because she had issues with a car lot where she lived, she wished the City and the Board of Adjustment would quit passing car lots with Special Exceptions abutting residential areas. Ms. Weaver stated that is exactly what she has going on behind her. This is the last thing the neighborhood needs. The business behind her is injurious to the neighborhood. This will not be any kind of improvement. She has been with this same type situation since 2000 and this will be the same song and dance.

Judy Hogner, 14205 East 11th Street, Tulsa, OK; stated she lives about a half block away from the subject property. The PSO that Mr. Dryer is speaking of is down closer to 4th Street and they have a small area. It is not a major area that PSO has.

LeAnn Standingwater, 14609 East 12th Street, Tulsa, OK; pointed out her property on the map that was on the overhead projector and pointed out her shed on her property. The piece of property being discussed today is directly behind her back yard. She is here today to say that she is opposed 100% with no delay and great emotion that this is a bad, bad mistake. It will depreciate the values of the homes. It will take away from the neighborhood what everyone loves about the neighborhood. The neighborhood still has a little bit of the quiet country feel. Ms. Standingwater stated that she feels that East Tulsa is in decline. She transferred her daughter out the school district because of the test scores. She also drives to Catoosa to grocery shop because the grocery stores in the area are not safe. With all that being said she loves her neighborhood. The neighborhood is awesome. There are great homes, There are great families. The houses actually sell quickly. In her opinion there is a little bit of paradise happening. Everyone wants to keep what they love about the neighborhood. A fence, trees, and cement on the corner is not good and will not work. She opposes this.

Christy Boggs, 1127 South 157th East Avenue, Tulsa, OK; stated she is a Board member of the Tower Heights Neighborhood Association. She did submit as an exhibit 120 signatures opposing this request. She moved into the area about 12 years ago. There are expensive large houses in the area. Just because people cannot see the houses does not mean that people aren't coming to the area to build nice beautiful houses. The residents do not want the car lots on 11th Street any closer than 129th East Avenue. They are attempting to encroach into the area and if this allowed it will set a precedent. People that want to live in the area will deal with the rock. If a person drives

east from 145th they will see beautiful land that is available, see nice houses being built and everyone that lives there take care of their properties. None of the residents that she has spoken to are opposed to this. She has seen car lots come and go. Just because the applicant says he is going to make it look pretty, what will it look like in ten years? She strongly requests a denial of any Special Exception, Variance or anything else. The neighborhood needs the property to be available for nice commercial development. The property directly across 11th Street is for sale and the neighborhood is hoping a developer will build houses. She drives up and down the subject street every day multiple times and that block between 129th and 145th looks like ratsville. She does not want that to come into the neighborhood.

Eck Ruddick, 14673 East 11th Place, Tulsa, OK; stated he is on the Board of Directors of Tower Heights Neighborhood Association. He lives three houses east of the proposed project. Mr. Ruddick stated that Mr. Dryer has stated that his hardship is that the purchaser can't use the property for what he wants to. He does not believe the Board considers that a hardship. And Mr. Dryer made the comment about more traffic on 11th Street than 145th, but obviously the attorney has not been in the area. There is traffic in both directions. While that may seem a moot point, 145th East Avenue is still a highly trafficked area. This subject property was residential about seven years ago and there were going to be seven homes built but the economy took a dive. Mr. Ruddick stated a Variance requires a hardship and everyone has heard what they stated their hardship is. A Special Exception states that any time a CS District comes within 300 feet of a residential area that the process must go through the process everyone is witness to. There is no part of the 143,748 square feet that is under discussion today that exceeds 300 feet from a residential area. They are in the neighborhood. For years car lots have lined 11th Street and the problem that starts at 129th East Avenue, and particularly 145th East Avenue, is there is residential. Mr. Ruddick stated that four of the six references INCOG has in the staff report has to do with the car lot is across the street immediately west and Mr. Ruddick pointed it out on a picture that he had placed on the overhead projector. Mr. Ruddick stated there are approximately 114 cars on that premise and behind the fence on the property are 41 cars, 36% of all the cars on the lot, that are bent, broken, doors are off, and 55 of the cars are parked on non-allweather surface. Is that what Mr. Dryer referring to when he said inoperative? Mr. Dryer stated that Code Enforcement could take care of it but Code Enforcement did not take care of the existing situation.

Mr. Van De Wiele asked Mr. Ruddick if he had contacted Code Enforcement. Mr. Ruddick stated that he has not.

Mr. Ruddick had pictures placed on the overhead projector showing the existing car lot. Both pictures were satellite pictures; one was taken in March and the other picture was the last weekend and it showed an increase in cars being stored on the lot. Mr. Ruddick presented additional satellite pictures of the area showing the subject property's relation to the surrounding area and the hopes of the neighborhood of future development.

Mr. Ruddick stated that INCOG says there is an existing sewer system but there is not. The closest sewer to the subject property is at 4th Street and it is not operational. It was installed for the outlet mall and there is another possible tie in about ½ mile away. There is no sewer for the area, everyone is on septic tanks. Mr. Ruddick stated that he asked the neighborhood Fire Department if they had a special disposal system and was told no and that the Fire Department is on a septic system.

Mr. Henke stated that he did not understand how a septic system plays into a retail versus a car lot, because the property is zoned CS. Mr. Henke feels that the presentation is getting way off track. Mr. Ruddick stated that a hard top surface does not allow for a septic system to work. Mr. Henke stated that the point is, the property is zoned CS and can have retail.

Mr. Ruddick asked the Board to deny this request and that they vote for Tulsa's economy.

Rebuttal:

Mr. David Dryer came forward and stated there is a hardship on the property. The hardship can be determined by the uniqueness of the property. The area adjoining the subject property has been acquired by AEP. The Ordinance and the zoning that is in place that the Variance is being sought on, is the open sales of the vehicles within the 300 radius from the residential zone. The property itself, because of its size, its depth, its length, all of that area when it is put into play causes an issue with the use and that is why he has the ability to request a Variance. A 300 foot radius encompasses almost all of the property. The hardship is in fact the size and the layout of the property. Mr. Dryer believes his client and the potential buyer of the subject property is being judged on properties that potentially has been put into play under a different set of rules. Mr. Dryer stated that this will be a new facility, new parking lot, new pavement, and new buildings. It has been asked what will it look like in ten years, but the same can be said for a new house. If the new owner of that new house does not take care of it it can a porch that is falling in. Mr. Dryer stated that he believes he has shown a hardship and met that burden. Developments always impact residential areas. That is why there are requirements for screening. That is why the City of Tulsa formatted the rules and regulations for screening property from residential areas. Mr. Dryer stated that he does not know that the placement of a new commercial development with all retail, again with the same issues, it will not exactly fit into the area. He requests the Board to grant the Variance to allow the use of the property.

Comments and Questions:

Mr. Henke stated that he thinks it is a self imposed hardship and is detrimental to the neighborhood so he will be voting against it.

Ms. Snyder agreed with Mr. Henke. She thinks it is injurious to the neighborhood. She does not understand why the property was not zoned for a car lot because it was just rezoned.

Mr. Van De Wiele stated that he thinks the zoning and the request seems to be self imposed whether it was a stumble on the applicant's part or something more calculated. He has almost reached a point where he thinks all the used car lots are almost by definition injurious to their adjoining neighborhoods. Mr. Van De Wiele stated that he cannot vote for this request.

Mr. Flanagan stated that he believes this is very injurious to the neighborhood and it is unfortunate that Mr. Dryer's client is not here today because he may have been able to provide a little more information. Nevertheless, he will not vote for this.

Mr. White agreed with everyone in that it is very injurious to the neighborhood and the problems are self imposed. In looking at the past minutes, basically the business the way it is arranged was not approved that way by the Board. It is in violation and in 2000 Jim Mautino, a City Councilor at that time, gave some conditions of operation which were incorporated into the minutes and they have not been complied with.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **DENY** 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) finding that this project will be injurious to the neighborhood and the requested Variance is self imposed; for the following property:

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

Mr. Van De Wiele left the meeting at 2:18 P.M.

NEW APPLICATIONS

21954—Sam Stokely

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2); Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 feet from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10). **LOCATION:** SW/c of North Yale Avenue & Gilcrease Expressway **(CD 1)**

Presentation:

Heidi Shadid, Eller & Detrich, 2727 East 21st Street, Suite #200, Tulsa, OK; stated she represents the applicant Sam Stokely.

Mr. Henke stated the Board is in receipt of the applicant's survey which is exhibit 5.5.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Flanagan, Snyder, White "aye"; no "nays"; Van De Wiele "abstaining"; none absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant's verification of spacing between outdoor advertising signs, for either a digital or conventional billboard, subject to the action of the Board being void should another digital or standard outdoor advertising sign be constructed prior to this sign; for the following property:

PRT LT 1 BEG 690.3E SWC E690.3 N662.89 NWLY174.53 NW382.66 NWLY272.29 S 1135.87 POB LESS E30 THEREOF BLK 6, GILCREASE FREEWAY INDUSTRIAL PARK B3-10, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21955—Sam Stokely

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2); Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 feet from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10). **LOCATION:** E of the SE/c North Yale Avenue & Gilcrease Expressway **(CD 3)**

Presentation:

Heidi Shadid, Eller & Detrich, 2727 East 21st Street, Suite #200, Tulsa, OK; stated she represents the applicant Sam Stokely.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Flanagan, Snyder, White “aye”; no “nays”; Van De Wiele “abstaining”; none absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant’s verification of spacing between outdoor advertising signs, for either a digital or conventional billboard, subject to the action of the Board being void should another digital or standard outdoor advertising sign be constructed prior to this sign; for the following property:

PRT LT 1 BEG 956.46N & 396.20E SWC LT 2 TH N727.81 NE238.45 SE72.06 CRV RT 133.92 SE229.28 SE282.51 SE32.73 S551.71 W60 N21 W859.26 POB BLK 2, GILCREASE FREEWAY INDUSTRIAL PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21956—Sam Stokely

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2); Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 feet from any other digital outdoor advertising sign facing the same traveled way (Section 1221.G.10). **LOCATION:** 2940 North Toledo Avenue East (CD 1)

Presentation:

Heidi Shadid, Eller & Detrich, 2727 East 21st Street, Suite #200, Tulsa, OK; stated she represents the applicant Sam Stokely.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Flanagan, Snyder, White “aye”; no “nays”; Van De Wiele “abstaining”; none absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant’s verification of spacing between outdoor advertising signs, for either a digital or conventional billboard, subject to the action of the Board being void should another digital or standard outdoor advertising sign be constructed prior to this sign; for the following property:

PRT NW SE BEG 658.59W SECR NW SE TH W658.59 N1321.41 E1177.40 S420.20 W582.50 S460 E63.17 S440.42 POB LESS E25 THEREOF FOR RD SEC 21 20 13 24.070AC, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21958—Eric Mosely

Action Requested:

Variance to permit the expansion of a non-conforming structure (Section 1405.A);
Variance of the required rear yard setback from 25 feet to 8.5 feet (Section 403, Table 3). **LOCATION:** 2735 South Gary Drive East **(CD 4)**

Presentation:

Eric Mosely, 2735 South Gary Drive, Tulsa, OK; stated this request is to allow an addition to be built on the back of the existing home to accommodate a growing family. Due to irregular shape and how the house is set on the lot the only other place for the addition would be on the front of the house. He feels that by putting the addition on the rear of the house will keep with the character and context of the neighborhood. He has spoke with many of the neighbors, including all the adjoining neighbors, and not one has an objection to the addition.

Mr. White asked Mr. Mosely when the house was built. Mr. Mosely stated that it was the 1950s.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Flanagan, Snyder, White “aye”; no “nays”; Van De Wiele “abstaining”; none absent) to **APPROVE** the request for a Variance to permit the expansion of a non-conforming structure (Section 1405.A); Variance of the required rear yard setback from 25 feet to 8.5 feet (Section 403, Table 3), subject to conceptual plan 9.10. The Board has found that the unique shape of the lot dictates the necessity for the second Variance. The reason the expansion is not going on the front of the property is to keep with the character of the existing 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 2 BLK 1, BANDERA, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21959—Anthony Haven

Action Requested:

Variance of the required off-street parking from 8 spaces to 0 spaces in the CH District for an event center (Section 1205.C). **LOCATION:** 1826 North Kingston Place East (CD 3)

Presentation:

Anthony Haven, 1826 North Kingston Place, Tulsa, OK; stated the request is due to the fact that there is no parking lot for the building and there is only street parking available. The people across the street and the people next door allow him to use their parking lots when necessary.

Mr. White asked Mr. Haven what the hours of operation would be for the event center. Mr. Haven stated that there are events that take place after hours and then there are events that take place during the days. The events that take place after hours will no longer exist because of previous things that have happened. The event center will be for private parties and similar events.

Mr. White asked if this would be an open bar. Mr. Haven stated that it would not.

Mr. Henke stated that the Board is not hearing a case on the event center but are to look at the parking.

Interested Parties:

David Patrick, District 3 City Councilor, 175 East 2nd Street, Tulsa, OK; stated he is a member of the Dawson Neighborhood Association. Dawson is a unique area because since its incorporation into the City of Tulsa it has had commercial and industrial next to residential. It has worked well because the commercial usually goes home about 5:00 P.M. Mr. Patrick stated that the subject facility has been operating illegally for over a year. They have no permits and no Certificate of Occupancy. The applicant's events usually take place late at night; a lot of them started at midnight and went as late as 4:00 A.M. The parking is a real problem because when there is a large event there will be 50 or 60 cars parked in the neighborhood. During an event there is also loud music. Things really got out of hand when the fighting and gun shots started and the Police had to be called. The City became involved and that is when Inspections discovered there were no permits for the facility and no Certificate of Occupancy. The Fire Marshall also inspected the building and found the building is not adequate for an event center and shut it down. Now the applicant is before the Board requesting a Variance for eight parking spaces for an event center. Mr. Patrick stated the facility is too small for an event center, there is no parking, and it is too close to residential. An event center is not appropriate for this building. When the applicant first moved into the building it was going to be a club house with a few motorcycles. Mr. Patrick stated that he spoke to Mr. Haven personally but the conversation quickly got out of hand. Mr. Patrick stated that as a representative of the neighborhood association and an owner that lives in the area he would requests the Board deny the opportunity for the Variance.

Rebuttal:

Mr. Anthony Haven came forward and stated that there is no residential in the area. Fifty cars can easily fit in the parking lot across the street and the cars would not park in any residential area. The Fire Marshall closed the building down because there was no Certificate of Occupancy but he is working on obtaining that.

Mr. White asked Mr. Haven if he had a parking agreement with the lot across the street. Mr. Haven answered affirmatively and an agreement with the lot next door. Mr. White asked Mr. Haven if he had submitted that with his application. Mr. Haven stated that he did not because he thought the lot owners would be attending the meeting today.

Ms. Snyder asked Mr. Haven if the agreement was a signed or verbal agreement. Mr. Haven stated that it is a verbal agreement.

Mr. Henke asked Mr. Haven how people he anticipated to attend functions at the event center. Mr. Haven stated that he has applied for 99 and under for the event center.

Mr. Patrick came forward and stated that he spoke with parties that own the parking lots under discussion, and they did give Mr. Haven verbal permission to use their lots after hours when the club first moved in. During the discussion and after the issues that have happened, the lot owners stated they will not give written permission to use their lots, and that is one of the reasons they are not in attendance today.

Mr. Haven came forward and asked the Board if he could request a continuance in order to obtain written consent from the parking lot owners. Mr. Henke informed Mr. Haven if he wanted to collect the agreements and submit them, but he is not sure because it is a building being proposed to entertain up to 99 guests without parking. Mr. Haven stated that he could have the guests park on the street because there is only street parking for the building, but there is no parking on Kingston Street because the street is too narrow leaving only Tecumseh to park on.

Comments and Questions:

Mr. Henke asked the Board for their opinion on the applicant's request for a continuance to the next meeting.

Mr. White stated that he could not support the request. Mr. Flanagan stated that he could not support the request. Ms. Snyder stated that she thinks she could support a continuance. Mr. Henke stated that there are two that will not support a continuance so it is now a moot point even if Ms. Snyder and he voted for the continuance because there is no majority. A request for continuance will not be granted.

Mr. White stated that he realizes this request only concerns parking, but the building is a little less than 3,600 square feet which allows approximately 3.6 square feet per person when the building is holding the 99 guests. This is what probably generated some of the problems that have been experienced in the past. Also, a similar application that

was submitted a few years ago at the northwest corner of Norwood and Tecumseh for a biker bar and it was denied. Mr. White stated that he cannot see reducing the parking requirements.

Mr. Flanagan stated he doesn't care whether it is a social club or an automatic dog wash; he would not be in favor of granting the request without a signed agreement.

Ms. Snyder stated that she thinks he needs an agreement and since he does not have a written agreement, which is normally what the Board receives, she could not support the request.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Flanagan, Snyder, White "aye"; no "nays"; Van De Wiele "abstaining"; none absent) to **DENY** the request for a Variance of the required off-street parking from 8 spaces to 0 spaces in the CH District for an event center (Section 1205.C) finding a lack of a hardship and it would be injurious to the neighborhood; for the following property:

LTS 1 & 2 BLK 15, DAWSON AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21960—Jason Mills

Action Requested:

Variance to reduce the required off-street parking from 54 spaces to 49 spaces (Section 1212.D). **LOCATION:** 4840 South Memorial Drive East **(CD 5)**

Presentation:

Jason Mills, 10023 East 83rd Place, Tulsa, OK; stated that on the northside of the current lot there are two restaurants operating. The north side currently has in use 11 non-compliant spaces which are still deficient when doing a total count. These operating facilities were built in 1994 with the north addition and outdoor area added a few years ago. The lot has a lot of existing constraints in it because overtime layers have been added to it. It was just recently leased so he is trying to help the applicant to get into compliance as much as possible. Handcapped parking will be addressed in front of the building, and the south parking lot can be restriped to add one additional space.

Mr. White asked Mr. Mills if there will still be two separate restaurants. Mr. Mills answered affirmatively. Mr. White asked Mr. Mills which restaurant he was representing. Mr. Mills stated he represents the north restaurant.

Interested Parties:

Ward Seibert, 5555 East 71st Street, Suite #8300, Tulsa, OK; stated he represents the ownership group of the Fontana Center which is immediately south the of the subject

location. There have been several incidents of late night confrontation between the Fontana security and patrons of the hookah bar because they are utilizing the Fontana parking for overflow parking. It is obvious there is not enough parking to take care of their patrons currently and there have been issues. Mr. Seibert stated that he does not think it would be a good idea for them to have less parking than they currently have.

Rebuttal:

Mr. Jason Mills came forward and stated the facility is in fact a restaurant but the building on the north portion of the lot is the hookah lounge and the covered area is the smoking area. The parking requirements are deficient as is, even as it sits today because there is non-compliant parking. This is already functioning with the parking as it is and has been for some time. Any amount of overflow after hours parking would need to be the owner administratively controlling the parking. Mr. Mills stated that he was not aware of any of the mentioned issues, but that is a different issue than the parking spaces being addressed.

Mr. Henke asked Mr. Mills if there was any food served at the hookah bar. Mr. Mills stated there was not any food served. Mr. Henke asked if there was alcohol served at the hookah bar. Mr. Mills stated there was not. Mr. Henke stated that this was not always a restaurant and hookah bar, and he asked Mr. Mills what it was previously. Mr. Mills stated that the building itself was always a restaurant. The existing additions were outdoor seating areas for the restaurant. Mr. Henke asked Mr. Mills what triggered the need for 54 parking spaces if it has always been a restaurant. Mr. Mills stated that he believes it is based on the square footage that exists today. When the new tenant took over they signed a lease for the whole facility but when they tried to obtain a Certificate of Occupancy they could receive one for the building that was originally there for the last Certificate of Occupancy. The square footage being leased includes the outdoor patio and the covered smoking area.

Mr. Van De Wiele re-entered the meeting at 2:51 P.M.

Ms. Snyder asked Mr. Mills if he was aware if there had ever been more parking spaces in the past because in the original approval for the two restaurants there were 60 required spaces. Ms. Miller stated that a restaurant is one parking space per 100 square feet of floor area. Ms. Moyer stated that the Letter of Deficiency states one parking space per 225 square feet. Mr. Mills stated that he has studied on behalf of the owner and he does not see how 60 spaces could have ever been on the lot.

Mr. White asked Mr. Mills asked which building the Variance request for the 49 parking spaces is for. Mr. Mills stated that with the Permit Office he has to comply for the entire lot. That is why the parking was angled and the 11 spaces that are existing technically do not comply. Mr. White asked if the City was separating the two businesses. Mr. Mills stated that operationally he is sure they are separated but it is all on one lot but the City is not separating the two businesses.

Mr. Henke asked staff if they could shed some light as to how this is not in compliance with the Code or whether it was in compliance at some point. Ms. Moyer stated that she is not sure if it ever was in compliance with the Code in terms of the total parking, but as the applicant stated parking requirements is for both uses on the lot, the restaurant and the hookah lounge.

Mr. Henke asked if the addition of the patio triggered the need for more parking. Ms. Moyer stated that in the Letter of Deficiency it looks like the addition of the outdoor seating area for the hookah lounge triggered the need for compliance with the Zoning Code.

Mr. Henke asked Mr. Mills when the patio was added. Mr. Mills stated that he thought the patio was about five years old.

Mr. Flanagan asked Mr. Mills about the hours of operation for the hookah bar. Mr. Mills stated that he was uncertain what the hours of operation are, but he knows the Mediterranean restaurant closes at 9:00 P.M.

Mr. Henke asked Mr. Mills what he would say about the patrons using the Fontana as overflow parking. Mr. Mills stated that his only argument to that would be that it sounds like an issue that is different than five parking spaces. If the Fontana is dealing with a dozen people parking on their property that is an administrative issue with the business owner. Anyone can loiter in a parking lot. Mr. Henke stated that his point is that the patio was added in the last five years which gives more usable space and brings more people to the business but they can't park and your overflowing onto the adjacent property it does not bode well for a request for a Variance before the Board of Adjustment.

Mr. Seibert came forward and stated that it is obvious that people are not parking in the Fontana lot because it is convenient for them. They are parking there because they must because there are too many cars for the subject parking lot. Mr. Seibert did not know how late the hookah bar was open but the majority of the incidents have occurred after midnight.

Comments and Questions:

Mr. White stated that he thinks this request for a Variance is a self imposed hardship because of the added patio which drove up the parking requirements. He agrees with the problems at Fontana but all they can do is attempt to drive them out of their lots with security and sadly that is beyond this Board's perview.

Mr. Flanagan stated that he is pro-business but if there are issues with parking now and want to take space away it will only increase the problem so he will not be in favor of this request.

Mr. Van De Wiele stated that he has not sat in long enough so he will not be voting but the 665 square feet of patio triggers six or seven parking spaces.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Flanagan, Snyder, White “aye”; no “nays”; Van De Wiele “abstaining”; none absent) to **DENY** the request for a Variance to reduce the required off-street parking from 54 spaces to 49 spaces (Section 1212.D) citing a self imposed hardship; for the following property:

LT 1 BLK 1, PHILIP SMITH ADDN RESUB PRT FIRST RES & DEV CTR., CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21961—Airvantage, LLC – Casey Montray

Action Requested:

Special Exception to increase the permitted height for a fence in the required front yard from 4 feet to 5 feet 10 inches (Section 210.B.3). **LOCATION:** 4724 South Detroit Avenue East **(CD 9)**

Presentation:

Casey Montray, 4724 South Detroit Avenue, Tulsa, OK; stated he erected the fence to give him some privacy from the next door neighbor. The neighbor is intrusive and he has her on video staring into his house windows at night like a peeping tom. The fence does not necessarily keep her out of his yard because he also has her on video at night sneaking around the fence. He has asked her to stop and to stay in her own yard, and that upset the neighbor who had her daughter call about the fence. The neighbor has told him what flowers to plant in his yard; and she has come over and randomly placed Christmas decorations in his yard. The neighbor's complaint is that she cannot see to back out of her driveway but through pictures that have been provided it can be seen that the neighbor has a very large crepe myrtle and a very large tree that blocks the view. Mr. Montray thinks the fence makes his yard look nice and he does not have to see the items the neighbor has stacked in her windows that have been there since they moved in. Mr. Montray stated that even the daughter stated that the neighbor is a hoarder.

Mr. Van De Wiele asked Mr. Montray if the fence was connected to the back yard fence. Mr. Montray answered affirmatively.

Mr. Montray stated that he has found the neighbor in his back yard so he has had to lock the gate to his back yard. Mr. Montray is using the fence in an attempt to keep the peace.

Mr. Henke asked Mr. Montray about the fence on the corner. Mr. Montray stated that privacy fence is actually their back yard but there is an eight foot fence in the front yard

of the house across the street. The Harley-Davidson dealership has the exact same fence and their fence is closer to the road than his.

Mr. Montray stated that the fence gives him a sense of privacy and he can be in his front yard with his daughter and not need to worry about the neighbor walking into his business. He reduced the height of the fence near the road so the neighbor could still see the street as she backs out of her driveway.

Mr. Henke asked Mr. Montray how far back he would be willing to remove the fence in the front yard. Mr. Montray stated that he was not sure.

Interested Parties:

Gary Haddad, 4128 South Norfolk, Tulsa, OK; stated he owns multiple properties in the Brookside area and he has five properties that are within the 300 foot radius of Mr. Montray. Mr. Haddad stated that he has a neighbor that has a six foot tall fence that is an infill, and the infills are doing u-turn driveways. His property has a garage in the rear so he has to back out and the six foot tall fence is a hinderance until he reaches the curb, and especially to his wife. He thinks that type fence is a huge hazard. He understands Mr. Montray's plight but where does it stop, are there going to be eight foot fences, six foot tall fences, or four foot tall fences. He understands the rules are a four foot fence. He understands the necessary for the six foot tall fence to block him from his neighbor but he thought Brookside was a neighborhood community to be close to the neighbors and know the neighbors.

Charles Wagers, 4716 South Detroit, Tulsa, OK; stated he lives two houses north and he has lived there for 43 years. The lady Mr. Montray is referring to has been intrusive for 43 years and there has been no change. It is not because she is elderly but she has a very negative attitude and she is borderline hoarder. She has been caught digging up flowers in the neighbors yards to take to her yard. The neighbors try to ignore her and if they see her coming they will go inside to avoid confrontation. At Christmas and Halloween she will take her own decorations and place them in Mr. Montray's yard. Her back yard is overgrown and in bad shape. She is eccentric. Mr. Wagers stated that he has seen the lady go around the fence, look into Mr. Montray's window, then looked at his plants and then went back around the fence. Mr. Wagers believes the fence is the best thing that happened in the neighborhood. Mr. Wagers stated that the lady does have any problem backing out of her driveway because she can see south but she can't see north because of her tree, holly bush and crepe myrtle.

Mr. Henke stated that it is hard for him to approve a Special Exception because of an eccentric neighbor. Mr. Wagers stated that he understands that reasoning.

Ms. Miller stated that fences cannot go above four feet in the required front yard which is 25 feet in from the property line.

Comments and Questions:

Mr. Van De Wiele stated that the Board has granted six foot fences in front yards for safety reasons, and there was a case the Board denied that went to District Court and the owner was allowed to have his six foot fence. The fact that this is not enclosing anything makes it more difficult to understand. Mr. Van De Wiele stated he has no problem with a six or eight foot fence from the edge of the house going toward the back yard. Mr. Van De Wiele thinks the existing fence is too close to the street but he does not know if a four foot fence going toward the house would accomplish the safety factor.

Mr. Henke stated that there is a house down the street in the sight line that has a six foot privacy fence so it is not out of character for the neighborhood.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to increase the permitted height for a fence in the required front yard from 4 feet to 5 feet 10 inches in the RS-3 District (Section 210.B.3). This approval will be with the condition that the part of the fence that is currently on City property be removed and the rest of the fence can remain as built. There is a time limit of 10 years from the date of this meeting, September 22, 2015. 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 26, BLK 1, Sonnie Sue Acres Sub W/2 TR B Harry N Abdo, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21965–Morton Comprehensive Health Services – Tyrone Lynn

Action Requested:

Special Exception to permit a health clinic (Use Unit 11) in the RM-2 District (Section 401); Variance to reduce the required off-street parking to 4 spaces (Section 1211.D). **LOCATION:** 6114 and 6116 West 11th Street South **(CD 1)**

Presentation:

Matt King, King Architecture Solutions, 1513 East 13th Street, Suite B, Tulsa, OK; stated that he will be speaking on behalf of Tyrone Lynn. This request is to allow a Morton Comprehensive Clinic in an existing Tulsa Housing Authority complex called Sandy Park. The clinic will be in a single story four unit apartment building. Two of the units will be converted to a single provider clinic. The clinic is required to have six parking spaces but the parking spaces are shared with the Tulsa Housing Authority residents.

Mr. Van De Wiele asked Mr. King four spaces would satisfy the clinic's parking needs. Mr. King stated he cannot address that specifically, but he thinks there is also street

parking. There is also a bus stop located there so they anticipate some of the patients will be riding the bus.

Mr. Henke asked Mr. King if he thought the proposed site would accomplish what the clinic is wanting to do. Mr. King answered affirmatively and stated that OU previously had a clinic in the complex.

Mr. White asked Mr. King if the clinic would be for the residents of the complex plus the public. Mr. King answered affirmatively.

Mr. White asked Mr. King if there would be any additions to the structure. Mr. King stated there would be a covering added for the entry. Mr. White asked if there would be interior modifications. Mr. King answered affirmatively because it is currently two residential units that are being combined into one clinic.

Mr. White asked Mr. King where the medical staff was going to park. Mr. King deferred to Mr. John Silva.

Interested Parties:

John Silva, CEO of Morton Comprehensive Health, 1334 North Lansing, Tulsa, OK; stated that it is anticipated that because the health center is mainly operated during the day the center wants to make sure that they do not impede upon the folks that are literally in the other half of the building and there is parking in other areas of the complex. The center also anticipates parking on the street. Morton has a transportation system that picks up patients, brings them to the facility and takes them back. Mr. Silva stated that the hardship would be to mitigate the impact on the abutting residents at Sandy Park.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a health clinic (Use Unit 11) in the RM-2 District (Section 401); Variance to reduce the required off-street parking to 4 spaces (Section 1211.D), subject to per plan 13.12. The hardship for the Variance is the number of patients attending the health clinic will be relatively small in number and to mitigate the impact on the abutting residents. 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. 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 1, SANDY PARK ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Mr. Henke appointed Mr. Tom Flanagan as Secretary for the Board of Adjustment. Mr. Flanagan accepted.

The Board members extended birthday wishes to Ms. Nikita Moye and Ms. Janet Sparger.

There being no further business, the meeting adjourned at 3:36 p.m.

Date approved: 10/13/15

Frank X. Henke, Jr.

Chair