

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1153  
Tuesday, January 12, 2016, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2<sup>nd</sup> Street

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Henke, Chair Flanagan Van De Wiele White, Vice Chair	Snyder	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, January 7, 2016, at 9:53 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

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**MINUTES**

On **MOTION** of **WHITE**, the Board voted 3-0-1 (Henke, Flanagan, White "aye"; no "nays"; Van De Wiele "abstaining"; Snyder absent) to **APPROVE** the **Minutes** of the December 8, 2015 Board of Adjustment meeting (No. 1152).

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Mr. Henke informed the meeting attendees that a new City of Tulsa Zoning Code has gone into effect. The applications to be heard today were made under the old City of Tulsa Zoning Code.

Mr. Swiney stated that the new City of Tulsa Zoning Code went into effect on January 1, 2016. All of the cases to come before the Board on the present agenda were filed under the previous Zoning Code which ceased to be effective December 31, 2015. However, those rules still apply to the applications that are presently before the Board. The Board will be enforcing the provisions of the previous Zoning Code.

Mr. Henke explained to the applicants and interested parties that there were only four board members present at this meeting, and if an applicant or an interested party would like to postpone his or her hearing until the next meeting he or she could do so. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from three board members to constitute a majority and if two board members voted no today the application would be denied. Mr. Henke asked the applicants and the interested parties if they understood and asked the applicants or interested parties what they would like to do. The audience nodded their understanding and there was one request for a continuance.

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### UNFINISHED BUSINESS

#### 22002—Eller & Detrich – Andrew Shank

##### Action Requested:

Variance of the required setback from south Sheridan Road to permit vacuum structures (Section 703, Table 2). LOCATION: 2181 South Sheridan Road East (CD 5)

##### Presentation:

**Andrew Shank**, Eller & Detrich, 2727 East 21<sup>st</sup> Street, Suite 200, Tulsa, OK; stated that he has just received an updated site plan and the request will require additional relief, therefore, he requests a continuance.

##### Interested Parties:

There were no interested parties present.

##### Comments and Questions:

None.

##### Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **CONTINUE** the request for a Variance of the required setback from south Sheridan Road to permit vacuum structures (Section 703, Table 2) to the Board of Adjustment meeting on February 9, 2016; for the following property:

**LTS 1 2 & W30.72 LT 3 BLK 1 & LTS 1 2 & W30.46 LT 3 BLK 2 & 60 OF VAC 22ND ST ADJ TO BLKS 1 & 2, COZY ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21998—Lamar Outdoor Advertising – Lorinda Elizando**

**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); Variance of the allowed display surface area for signage on a lot in the IL District (Section 1221.E.3). **LOCATION:** 15091 East Admiral Place North (CD 6)

**Presentation:**

The applicant requests a continuance to February 9, 2016.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder 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); Variance of the allowed display surface area for signage on a lot in the IL District (Section 1221.E.3) to the Board of Adjustment meeting on February 9, 2016; for the following property:

**E194 W344 E832.22 S OF 66 BYPASS & LESS S40 & N250 E22 W150 E832.22 LT 3 SEC 3 19 14, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**NEW APPLICATIONS**

**21634-A—Brian Freese**

**Action Requested:**

Modification of a previously approved site plan for Tulsa University (BOA-21634) to allow the addition of a courtyard to the Tulsa University Catholic Newman Center. **LOCATION:** 440 South Florence Avenue East (CD 4)

**Presentation:**

The applicant has withdrawn this application.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

No Board action required; for the following property:

**LTS 2 THRU 4 BLK 4, COLLEGE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**UNFINISHED BUSINESS**

**21981—Leah Krautter**

**Action Requested:**

Variance to allow a two-story detached accessory building exceeding 18 feet in height and exceeding 10 feet at the top of the top plate (Section 210.B.5).

**LOCATION:** 1315 East 19<sup>th</sup> Street South (CD 4)

**Presentation:**

**Tom Neal**, 2507 East 11<sup>th</sup> Place, Tulsa, OK; stated he is an Associate Member of American Institute of Architects and the Preservation Commissioner. The applicant is attempting to rebuild a garage and quarters that has been in place for over 80 years. The house itself dates from approximately 1918. There had been a two car garage with a living area upstairs, having two bedrooms and a bathroom. The building had been non-conforming in height for a number of years. There was a fire and some of the structure is still in place; the foundation and most of the east wall. Under the old and the new zoning code the building would probably qualify as an accessory building in terms of the setbacks and coverage of the required rear yard. There is a very unusual tree on the property; it is probably the first or second oldest Atlas Cedar in the State of Oklahoma and the homeowner is attempting to keep it alive. The hardship in this case is that Ms. Krautter has a rather large family, 12 children. While the house is fairly large there are times when her mother stays with her and the grown children, who now have children, stay with her so the idea is to recapture the two bedrooms that were lost in the fire. The proposed building is four feet taller than the original 22 feet and because it is a rebuild it is proposed to add two extra bathrooms. Mr. Neal had pictures placed on the overhead projector to show the relationship of the proposed garage in relation to the surrounding neighboring property.

Mr. Van De Wiele asked Mr. Neal if the proposed garage was going to be larger than the original footprint. Mr. Neal stated that it will not be larger than the original footprint. The only difference will be that instead of a garage it will be more living space. Mr. Neal stated that the Zoning Code does not make any distinction whether there is an accessory building being built or a garage with quarters. Mr. Neal stated that it is also his understanding that the City treats an accessory building like the one proposed as allowable as long as the occupants are legally related to the occupants in the main house.

Mr. Neal stated that Ms. Krautter had entertained the idea of having a bed and breakfast for a source of income, but she was not aware of the zoning restrictions on a bed and breakfast so she is no longer considering that option.

**Interested Parties:**

**Tom Baker**, 1323 East 19<sup>th</sup> Street, Tulsa, OK; stated that he is opposed to the proposed project. Detached garages with quarters are not uncommon in the neighborhood because his garage had quarters when he purchased his house which is next door. He chose to convert the quarters to a small work shop. Last summer there was a fire in the subject garage while it was undergoing a non-permitted reconstruction. Mr. Baker stated that he mentioned the non-permitted aspect because it is consistent with the respect to public policy that the applicant demonstrates. The current proposal is not to recreate a garage but is to construct a second two-story 1,500 square foot residence with three bedrooms, each with an attached bath, and a kitchen and dining area. A second single family residence on the subject lot. While the applicant describes the need for the large and extended family sleeping area, which is self imposed situation, the plan repeated to many of the neighbors is expected to be operated as a bed and breakfast. The applicant can say that there will be no bed and breakfast but the construction is still the same as it was initially. The Comprehensive Plan describes the area as an existing neighborhood and an area of stability. Allowing a second residence and a commercial enterprise in this area will not contribute to the continued stability of the existing neighborhood. This plan will cause an increase in current heavy on-street parking, and will introduce a commercial enterprise into the residential HP District. The neighbors would ask the Board, should they approve this request, that they include appropriate language that ensures the structure will be used as presented; family sleeping quarters and not a commercial bed and breakfast use. That would be one way out and would place the burden on the neighborhood to make sure the applicant will comply with the public policy which they have repeatedly demonstrated an unwillingness to do.

**Lynn Jones**, 1320 East 19<sup>th</sup> Street, Tulsa, OK; stated that she has lived in the Swan Lake District since 1972 and she took part in the rally that turned the area into a historic area. Ms. Jones stated that she has been before the Preservation Board on three separate occasions to make changes to her property. She does follow the guidelines provided in the historic area outline. Ms. Jones stated that she is not in favor of the current application for the modification, to what she is now being told is a utility structure. The structure was presented to her by Ms. Krautter as a bed and breakfast

with the remodeling of the existing and now burned down structure. Ms. Jones stated that she fears for her neighborhood and her neighbors if the structure is allowed to be over built. The occupation of that building, no matter whom, will create a major burden on what is now a stressed neighborhood street. There is only a single access lane when there is parking on both sides of the street. Due to the number of duplexes in a three block area the street is always full especially on the weekend when there are visitors. Ms. Jones stated that her driveway and Ms. Krautter's driveway are single car driveways spaced close together which limits the number of cars that can be parked in them. Nineteenth Street is a major thoroughfare for the Fire Department to St. John's Hospital. Almost daily a fire truck traverses the street to get to St. John's and they have completely blocked the street in fighting a fire, such as Ms. Krautter's. Ms. Krautter has access to a three-story house so the overbuild seems extreme. The architect has stated that Ms. Krautter has 12 children but three of the children are adults and live off site, there are several in college and at least one child lives with his father. Ms. Jones stated that the structure she has seen faces the street and looks like an additional house which is puzzling since the Preservation Committee is so stringent on what can be viewed from the street. Ms. Jones would ask the Board to consider the needs of the neighborhood and deny the application. Ms. Jones also suggested that Section 8E, E1-0-3 in the preservation zoning rules be reviewed which regards new construction on non-contributing structures.

Mr. Henke asked Ms. Jones if, in terms of the request today it is to increase the height by four feet, she is saying that is over building for the neighborhood and not in keeping with the neighborhood. Ms. Jones stated that the old garage was a two-bedroom with a kitchenette and a bath. Now the discussion is for three bedrooms, three baths, a dining and a kitchen which is the possibility of three separate people. Ms. Jones stated that for her it is an over build for the neighborhood, specifically, because the neighborhood does not have the street to accommodate the numbers of people that could be in the new structure. The neighbors also fear that it will be used as a bed and breakfast even though the architect has said that is not an issue. Mr. Henke stated there is no limitation on the number of bedrooms allowed in a structure or a number of bathrooms. Mr. Henke stated the structure is proposed to be taller but the footprint will be the same. The applicant is here today for the hardship of the height and if the Board were to approve this there would be conditions that the structure cannot be used for something that is not legal.

Mr. Van De Wiele asked if there was something in the old code or the new code that prohibits more than one dwelling unit per lot. Mr. Henke stated this is not an additional dwelling. Mr. Van De Wiele stated that if the things being added make it a dwelling unit it is. Ms. Miller stated there is a provision in the Code, Section 207, that does limit one dwelling unit per lot. Ms. Miller stated there are times when a person wants to add an accessory dwelling unit for a rental, but there is a Variance required for that. Mr. Van De Wiele stated the Board has had matters before the Board that determines what is and what is not a dwelling unit; isn't it sleeping quarters, bathroom, or kitchen? Ms. Miller stated that there are people that did not previously have an accessory building unit that built but they had to come before the Board for a Variance for the additional

dwelling unit which contained a full kitchen, bathroom and all that. Mr. Swiney stated that his understanding is that there can be a second building, like a garage with living quarters in it, but with a kitchen, bath and bedroom in it as long as it is only family or employees of the family living in the structure. Mr. Van De Wiele asked if a person can have all of those things provided it is family members living there. Mr. Swiney answered affirmatively.

Ms. Jones asked that the Board members remember that the structure was a garage apartment with space for two cars. The initial footprint does allow for what is being discussed but the original structure was a garage.

**Chip Atkins**, 1638 East 17<sup>th</sup> Place, Tulsa, OK; stated that as an associate of the subcommittee for historic preservation and he has been called several times about this project. This project is not a garage. This structure looks like a house. It is a house because there is no garage to the proposed structure at all. This is actually a whole additional structure. The statements of imposing family is not a hardship; it is a self imposed hardship. This is injurious to the neighborhood. Mr. Atkins stated that he has looked at all the codes and tried to figure it out. Garage apartments are in the neighborhood and are prevalent in the neighborhood, but they are not a house. There are not garage apartments like this. They are called garage apartments because of the garage storing cars. He does not see this an accessory structure, but sees it as a house and nothing more.

Mr. Henke stated that in the terms of the City's position this is an accessory building because it is not a garage for the car.

Mr. Van De Wiele asked if a second dwelling unit is an accessory? Ms. Miller stated that in looking at the definition for a dwelling unit in the Code, and it says, "a room or group of rooms arranged, intended, or designed as a habitable unit, containing kitchen, bath and sleeping facilities for not more than one family living independently of any other family." Ms. Miller stated this would be an interpretation of that. Mr. Van De Wiele stated this is all one family so is this an accessory building first? Ms. Miller stated that Mr. Swiney's thought is that it is all of that. It is one family constituting a dwelling. Mr. Swiney stated that is what he said when there is an accessory building, but Mr. Atkins pointed out that there is no garage in this structure. Mr. Van De Wiele asked if there is a definition for accessory building? Mr. Swiney stated that "Accessory Use Or Structure: is a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure." Mr. Swiney stated that clearly indicates a garage. By eliminating the garage feature of the accessory building that it is no longer an accessory building, then it becomes another dwelling unit.

**Sheila Baker**, 1323 East 19<sup>th</sup> Street, Tulsa, OK; stated she lives next door and would like to address one more issue. There is an issue of trash because there is always trash in the back yard. This will only add more trash that, obviously, they do not have a way to dispose of. In doing away with the garage means they will not have an area for their trash. Ms. Baker asked if the height Variance is approved what will be the next

step after today. Mr. Van De Wiele asked Ms. Baker what she meant by that statement. Ms. Baker stated that if the Board approves the height Variance does that mean the Board is approving the whole structure to be built? Mr. Henke stated the applicant has only asked for relief under the Code for the height Variance, and the City's interpretation of the garage/accessory/dwelling unit. The Board is just addressing the height today. Depending on what happens today the neighbors can appeal the decision if they are unhappy with the decision or the applicant can appeal the decision if they are unhappy with the decision.

Ms. Baker stated that another point she would like the Board to consider is that everyone in the neighborhood have large extended families, and if all the neighbors were to build another house on their lots it would be a messy neighborhood. Parking is a big problem. Whether it is family living there or whether it is rented out it is still adding more cars.

Mr. Chip Atkins came forward and asked if the application is approved will there be any special conditions, because there will be two full houses on the subject lot which is zoned single family not RM-2. What happens to the house if the current owner chooses to sell? Mr. Henke stated that whoever buys the subject property would be bound by the Code and the Code is specific on how a property can be used. Mr. Atkins stated that he understands that but what happens under the new Code since it is less specific. He would like to have something in writing since this application is under the old Code.

**Rebuttal:**

Mr. Tom Neal came forward and stated that it is his understanding that the City of Tulsa has never designated specifically what an accessory building is. It has never mandated that a garage and only a garage can be an accessory building. Historically the City has had wash houses and other kinds of small dependencies on a house. Quarters that were sometimes separate from a garage. Garages that have been turned into quarters. Mr. Neal stated that he would like to make note that when driving past the subject property, there are six or seven houses immediately across the street and adjacent that have substantial quarters. Ms. Jones garage apartment in the back, from the street, looks as every bit as tall as what is proposed today. Mr. Neal reiterated that this is not in essence a brand new house, this is something rebuilt where there was something there before. There were two bedrooms. There were already living quarters.

Mr. Van De Wiele asked Mr. Neal that if the Board were to just focus on height, which he understands that is what the applicant would like for the Board to focus on, what is the hardship for going above 18 feet? What is the hardship from going from 18 to 26 feet or going from 22 to 26 feet? Mr. Neal stated that it allows the applicant to have a little more room and respect the existing footprint. Respect the existing footprint because the applicant is trying to work into the historic neighborhood. Also, in recognition that the applicant does have a very large family who come home for the holidays. There is a distinct possibility that the applicant's mother, who is 75, may come to live with her and it seems like an ideal situation to have a place where a senior can have some measure of independence but also be close enough to get help from the



family. Mr. Neal stated that under the new Code or the old Code that the dependency and the main house be occupied by legally related people. That is not going to change. Mr. Neal stated that it is his understanding that the applicant could, by right, still build an accessory building with 10 foot height plate with an 18 foot maximum height based on 40% of the main house. The main house is 4,400 square feet using the basement which is legally allowed to be part of the tabulation even though it is not habitable. The applicant by right could build a 1,600 square foot dependency in the back yard. By attempting to save the old tree, what is being proposed has less impact.

Mr. Van De Wiele stated that the Board sees a lot of the old detached garages, and what he is hearing is that the basis and hardship that is given is to replace or rebuild a garage that was there. But the applicant is not doing that and that is what he is struggling with. The hardship is because the applicant is wanting to replace a garage with a couple of bedrooms into what Mr. Van De Wiele truly believes to be a second dwelling unit permitted or otherwise. Mr. Van De Wiele stated he is having a hard time with the hardship for the extra four feet or the 22 to 26 feet.

Mr. Neal asked if the applicant were asking to rebuild essentially what existed previously and 22 feet in height would that work? Mr. Van De Wiele stated that he can get the 22 feet because it is rebuilding what the applicant had. Mr. Neal stated that he believes the issue with the garage is irrelevant because it is the home owner's prerogative whether they use the space for lawnmowers, storage, garage or ping-pong table. Mr. Van De Wiele stated there houses all over Tulsa where people have made a bedroom out of an attached garage, so he does not think the Board can get into what the structure is being used for but he is having a hard time with the hardship.

Mr. Neal asked what he would need to do if his client were amiable to what the Board is suggesting. Mr. Henke stated the Board can grant less than what the applicant has asked for. Mr. Henke stated that he can agree with Mr. Van De Wiele and that is typically what the Board sees and allows structures to be rebuilt. Mr. Henke stated that he is having a hard time with the hardship for the Variance.

Mr. Neal conferred with his client and stated that his client is agreeable with the height. Mr. Flanagan asked Mr. Neal if his client were still considering running the structure as a bed and breakfast. Mr. Neal stated that his client understands that if she were to try that she would need to come before the Board to receive a Special Exception, and she has repeatedly stated that it is her intention to do everything to the letter of the Code and regulations.

Mr. Neal stated that to put it in context, there are several neighbors that rent out their properties, and are in large measure doing precisely that to which they are objecting. There may even be a bed and breakfast within the 300 foot notification limit.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a **Variance** to allow a two-story detached accessory building exceeding 18 feet but not exceeding 22 feet in height and exceeding 10 feet at the top of the top plate (Section 210.B.5), subject to conceptual plan 2.13 showing the existing footprint of the accessory building which is generally where the new accessory building will be located. This approval is subject to the further condition that the footprint of the building is not changing. Finding that the subject accessory building was damaged by fire and is need of reconstruction, and with the further condition that absent approval in the future this will be living quarters portion of the accessory building for family purposes only and not for commercial use as a bed and breakfast lease units or otherwise. Finding that due to the mentioned fire these constitute 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:

**W90 E151 LT 6 BLK 25, PARK PLACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**21995—Carl and Leslie Barnes**

**Action Requested:**

**Variance** of the minimum lot width requirement for Tract 1 and Tract 2; **Variance** of the minimum lot area and land area per dwelling unit requirement for Tract 2 to permit a lot-split (Section 403, Table 3). **LOCATION:** 26 East 25<sup>th</sup> Street South (CD 4)

**Mr. White recused at 1:49 P.M.**

**Presentation:**

**Carl Barnes**, 214 Woodward Boulevard, Tulsa, OK; stated this is the second attempt to receive a Variance. What is presently there are two tracts which have always been taxed separately with separate legal descriptions. The previous application requested that 12'-6" be moved from the west tract to the east tract. Tract 1 is a vacant lot and Tract 2 has a residence on it. Tract 2 is 50'-0" wide and Tract 1 is 62'-6" wide. The objections under the first application were the 50 feet would not be wide enough to build a house that would be appropriate to the neighborhood. Based on observing the other houses in the neighborhood he thought differently because there are other 50 foot lots. Today the request is little different from the previous application. Mr. Barnes stated that

he is asking for the on the front 80 feet of the lot that only 2'-6" be switched over to Tract 2. The reason for this is that there is an existing cement driveway that is 20 feet wide and the requested 2'-6" would be dividing the driveway equally between the two lots. If there was not a division of the 2'-6" one portion of the driveway would be significantly wider than the other and there would be a driveway with the existing residence that would be usable but not ideal. Another issue with the frontage being moved to the residential lot is that there is 9'-6" to the present lot line. Mr. Barnes had a map placed on the overhead projector and he explained that there are three lot lines drawn and one of those lot lines goes through the garage. The jog in the proposed lot line is to deal with an encroachment issue relating to the garage. The hardship for this request is that this a tract that may require the razing of an existing garage if it is not in conformity with the Code. The subject property was purchased about five years ago and the garage was built encroaching the other tract prior to any zoning regulations. Mr. Barnes stated that his hardship is that there are encroachment issues and setback requirements, which the setback requirements could be cleaned up by switching the footage from one lot to the other lot. He desires to make two reasonably usable lots. There are very few lots in the neighborhood that comply with the zoning code of a 75 foot frontage. The lot next door to the property is 72 feet; there is a 64 foot lot nearby; the three lots behind the subject property are all 50 foot lots so he increased his request to 60 feet. Mr. Barnes stated the property has been built since 1927. He would like to clean the lot lines up so the empty lot can be sold to a developer. Mr. Barnes stated that he lives in the neighborhood and wants to preserve the historic nature of the neighborhood. He would like to see some infill come in that would be appropriate for the neighborhood. As far as the hardship is concerned, this lot will not be utilized if the nature of the property line is not corrected. Mr. Barnes stated that all he would like to do is switch 2'-6" from the front 80 feet and switch 8'-0" from the back yard of the west lot to accommodate the encroachment.

**Interested Parties:**

**Adam Dolinsky**, 20 East 25<sup>th</sup> Street, Tulsa, OK; stated he lives next door to the subject property. Mr. Dolinsky presented a couple of maps to be placed on the overhead projector showing the lot lines and 25<sup>th</sup> Street. Mr. Dolinsky asked the Board what had changed since the previous application had been presented and denied. The flip-flop of the lot lines has changed but the opposition from the neighbors has remained unchanged. The neighbors feel as though this will be a detriment to the neighborhood. There is no change in the hardship. This started out as an attempt to facilitate the selling of the lot. This lot was platted in the 1920s and the zoning code was enforced in the 1970s. Every house on 25<sup>th</sup> street has larger lots than 50 feet. This application request is for the middle of the street and it would increase the density greatly. The subject house is a rental property so the neighborhood could see a 112 foot frontage with as many as five renters or five families.

Mr. Van De Wiele asked Mr. Dolinsky how he got to the five families. Mr. Dolinsky stated that present there are three families living in the subject house so he is adding for an additional two that could be in whatever new house is built. While Mr. Barnes wants to assure the neighbors that it will not become a rental property there are no guarantees

that once the lot is sold. There are a lot of children in the neighborhood and the park is going in that will add considerable traffic. Mr. Dolinsky stated that he believes the hardship is financial in nature. The Barnes purchased the property four or five years ago and they knew the issues when they purchased it. This seems like an attempt to monetize the property which is not in the pervue of the Board of Adjustment. There are home owners that have an invested interest in 25<sup>th</sup> Street and what happens on it. It is important to the neighbors to maintain their homes and the place where they live. The request seems to basically monetize property for the benefit of an investor and developers.

**Roger Goodhead**, 12 East 25<sup>th</sup> Street, Tulsa, OK; stated he lives two properties away from the subject property to the west and on the same side of the street. He has lived in the neighborhood since 1975 and the house he lives in with his wife was purchased by her parents in 1957. He has seen a lot of history on this block and throughout the neighborhood. Mr. Goodhead stated the street is a concern in regards to parking because it is only 18 feet wide and laid in 1927. It is very difficult for emergency equipment to get down the street when there are two cars parked on each side of the street. The other issue is that the renters never park in the driveway; there are always cars on the street. If the driveway were to be split as requested, it would create an issue where there would be more parking on the street because with a single lane driveway there is less ability for people to fit in a ten foot wide driveway. In the five years Mr. Barnes has owned the property he has had three renters and the neighbors have had to address issues with some of the renters and parking in the lot. It becomes a real nuisance. The same problem has arisen with the duplex across the street from the subject property. The neighbors are very interested in keeping up the neighborhood as much as possible. As private home owners the neighbors try to take care of it and it is evident which properties are rentals. It is the neighbors fear, from the way Mr. Barnes is requesting to split the property, that it will lead to a speculative purchase from a developer and the developer will want to place another rental on the property. Mr. Goodyear stated that with The Gathering Place going in there is going to be a greater demand for this type of thing to happen throughout the Riverside District. Mr. Goodyear stated that he thinks this will set a precedent and it could be very detrimental to the entire neighborhood. The neighbors have spoke with the City about how the parking was going to be addressed when The Gathering Place is completed, because they think there is going to be a tremendous amount of interest in the park and it is only two blocks away from the neighborhood. The City is studying the parking currently but no decision has been reached. Mr. Goodyear stated that he requests the Board consider denying this request because he does not think it is beneficial to the neighborhood.

**Rebuttal:**

Mr. Carl Barnes came forward and stated that he finds it interesting in that neither objecting party wanted to deal with the issue of whether the 60 foot was sufficient as opposed to 50 feet as requested at the last hearing. Mr. Barnes stated that there are three rentals on the corner. In regards to the parking concerns, there are "No Parking" signs on the south side of the street which did not previously exist. Mr. Barnes stated that he does not live on the subject property but he drives by the property consistently,

and he knows the tenants in the house always park in the driveway. Tenants that live in the garage apartments use to park in the driveway on the other side and there was one tenant at one time that consistently parked on the street because that is where he preferred to park. Mr. Barnes did receive a complaint from Mr. Goodhead about tenants parking on the vacant lot and he contacted the tenants and corrected. If the neighbors were concerned about keeping the neighborhood up they would want to have the infill for the subject lot because no one is going to pay \$200,000 for a lot and build a rental. Mr. Barnes stated that Mr. Dolinsky has requested to purchase 30 feet of the subject lot and his mother wanted to purchase the entire 50 foot lot, but yet these neighbors want to object to a 60 foot lot. The subject lot is currently a 62'-6" lot and it will be sold; it simply has a property line that goes through the garage that encroaches on the neighboring lot which is correctable. Mr. Barnes would request the Board to approve the Variance so the lot line can be moved so there is a much cleaner property line relating to the neighborhood and enhancing the neighborhood. Mr. Barnes stated that he is attempting to preserve the neighborhood by correcting the lot line issue.

Mr. Henke stated that the property is two tracts but it is all one lot, and essentially what is being requested is a lot-split. Mr. Barnes stated that he owns both lots and he discussed the issues with INCOG, and was advised that the 62'-6" lot could be sold as is.

Mr. Henke stated that to Mr. Dolinsky's point, the two lots were purchased with the existing lot lines. Mr. Henke asked Mr. Barnes if his plan was to purchase the lots with the intention of developing them. Mr. Barnes stated that it was not; he purchased the lots from a probate/estate sale to preserve the subject house.

Mr. Henke asked Mr. Barnes if he was saying his hardship is the fact that there are other smaller size lots in the neighborhood. Mr. Barnes stated that he thinks a 60 foot lot is large enough; the hardship is that there is a structure that is encroaching upon the other tract and in order to sell the other tract something has to be done similar to a lot-split. Mr. Henke stated that the lot would not be developable without relief from the Board of Adjustment.

Mr. Van De Wiele asked if there was a lot that is 60 feet wide and a lot that is 52 feet wide. Ms. Miller stated there are two lots end even though it is a non-conforming lot it is still a buildable lot. If Mr. Barnes were to raze the garage today he could sell the subject lot.

Mr. Henke asked if Mr. Barnes could build on the lot as the Code reads today. Ms. Miller answered affirmatively. Ms. Miller stated the issue is the garage sits on the property line and she does not know how that would fall out in the title work for selling the property because it is a problem. Mr. Barnes stated he trying to fix the lot line problem to where there will be no encroachment issues.

Mr. Henke stated that he is struggling with the hardship because Mr. Barnes knew the problem existed when he purchased the property four or five years ago. Mr. Henke

asked Mr. Barnes if the hardship existed when he purchased the property. Mr. Barnes answered affirmatively but the encroachment issue has existed since 1927. Mr. Henke stated that was his point; it was known about the usability issues when the property was purchased.

Mr. Dolinsky came forward and asked if the hardship revolves around the line that runs down the property, why not combine the two lots into one lot that is in conformity with RS-2 zoning? That would be the obvious way of solving the issue, if in fact it is the true issue. Mr. Henke stated that Mr. Barnes has already stated that he wants to monetize the lot.

Mr. Barnes came forward and stated to combine the lots would make it the largest lot in the neighborhood and it would not be in conformity with the type of houses that exist. There would be an approximate 60 foot side yard which would not make a lot of financial sense even for the City.

**Comments and Questions:**

Mr. Henke stated that he cannot support this request.

Mr. Van De Wiele stated that he thinks there seems to be a misconception in the neighborhood that there is a single lot existing today that is 112'-6" wide. That is not the case. There is a 50 foot tract and a 62'-6" tract. If this were two separate owners there would be no problem with the owner of the larger piece deeding over the smaller piece and legal mechanism for that is a lot-split. Originally what was being requested was flip-flopping the line and it was denied. Mr. Van De Wiele stated that he does not have a problem with this request. The applicant is starting with a 50'-0" lot and a 62'-6" lot and wants to have a 60'-0" lot and a 52'-6" lot. The discussion is about 2'-6" moving from west to east. Mr. Van De Wiele stated he can support the request because there is a hardship there with the existing lot line and the encroachment that existed 50 or 60 years ago. It is not self imposed. Mr. Barnes bought it but it is not self imposed.

Mr. Henke stated that it is self imposed when you monetize it and sell the second lot. Mr. Van De Wiele answered, "possibly". Mr. Henke stated that was his point.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 2-1-1 (Flanagan, Van De Wiele "aye"; Henke "nay"; White "abstaining"; Snyder absent) to **APPROVE** the request for a Variance of the minimum lot width requirement for Tract 1 and Tract 2 as shown on page 3.17; Variance of the minimum lot area and land area per dwelling unit requirement for Tract 2 to permit a lot-split (Section 403, Table 3). Finding that the existing lot line would practically be moved approximately 2'-6" from west to east on the 25<sup>th</sup> Street side and 4'-6" on the rear lot line. These lot lines and buildings on the lots existed prior to the current and previous zoning code resulting in an 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:

**W 25 LT 3 & E 37 1/2 LT 4 BLK 12; W25 OF LT 2 & E25 OF LT 3 BLK 12, RIVERSIDE DRIVE ADDN THIRD AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**The Motion Fails due to lack of a majority vote.**

**Mr. White re-entered the meeting at 2:29 P.M.**

**22005—Nathan Cross**

**Action Requested:**

Variance to reduce the permitted lot width in the RS-2 District to 65 feet on Tract A and B, and to 69 feet on Tract C (Section 403) to permit a lot split. **LOCATION:** 2232 & 2240 South Evanston Avenue East (CD 4)

**Presentation:**

**Nathan Cross**, 502 West 6<sup>th</sup> Street, Tulsa, OK; stated the two properties are relatively very large lots in a subdivision that was platted pre-code and sit on a dead end street which dead ends into the highway right-of-way. Mr. Cross believes the property was platted in the 1940s. There currently are two smaller single family houses on the lots. The intent of the developer is to split the lots into three lots that would fit the bulk and area requirements for an RS-2 neighborhood. The overall concept is that people continue to build houses that are larger, more expensive and fit better with the look and feel of the neighborhood which is somewhat upscale. Mr. Cross stated that he has heard that the neighborhood has some concerns and like to address what he has heard. Mr. Cross stated that a flooding issue has been brought up. There is a lot of fear of flooding and believes there was some action taken recently. The property owner to the south was required to do something about the drainage onto the intersection, particularly Evanston Avenue. Mr. Cross stated that it is his understanding from the City that there are no street drains along Evanston Avenue which leads to water pooling. The City has been very clear about what has to take place and a hydrologist has been brought in and flooding will not be an issue. The other issue that he has heard about is traffic. He is not sure that by adding a single family home adds a significant amount of traffic to the situation. There will be more than likely two cars so that should not be as big an issue as it could be for other developments. The neighborhood has expressed a concern about setting a precedent. Mr. Cross stated that there is no precedent to be set here. What is unique to this particular situation would not necessarily set a precedent for any other development. The hardship is that this is 32,000 square feet of developable space and it is under developed as it sits now. There can three lots can be

created that would accommodate houses that would fit the look, feel and size of the neighborhood and more consistent with single family houses needed in today's market and are much better than what sits there currently. The three houses would easily fit all the bulk and area requirements of an RS-2 lot but for the street frontage issue.

**Interested Parties:**

**Judith Royster**, 2307 South Evanston Avenue, Tulsa, OK; stated she has lived in her home for 22 years. She understands the Board has the authority to grant a Variance if the applicant can demonstrate an unnecessary hardship. When she looked at the information on the website it stated that an unnecessary hardship is to prevent a zoning regulation for depriving the owner of all beneficial use of his land and thereby avoid a regulatory takein. That is an enormously high standard and the burden is on the applicant to show that they need it. The neighbors contention is that they cannot show that they need it. The information on the website suggests six potential challenges that interested parties may bring to an application and it is her understanding that if an applicant fails one of those it should be denied. The neighbors contend that this application fails five of the six. The applicant has not shown unnecessary hardship. What was seen in the application and what Mr. Cross has articulated today is the developer wants to put three houses on two lots and it is not going to as financially beneficial for him if he can't. That is not an unnecessary hardship. There is no hardship in the fact that the lots across the street are irregular in shape and that the lots are larger than many currently built lots in other areas of Tulsa. The hardship that is relied on is not unique to the property but generally applicable. There is nothing unique about the property. The Bryn-Mawr subdivision was platted in the 1940s and platted with quite large lots which are larger than currently required by RS-2 zoning. That is not a factor that is unique to the applicant's property but a factor that is unique to the entire neighborhood. Granting the Variance would be detrimental to the public good. Mr. Cross mentioned the precedent and the neighborhood is deeply, deeply concerned about the precedent this may set. Older houses in the neighborhood are being bought and razed, and sometimes with good reason. The neighbors are not objecting to the building of new houses but they are concerned about taking two lots and splitting them into three and then building three houses. If the Variance is granted the next developer can come in and argue with some force to the Board that there is no reason to deny the next developer if today's request is approved. The neighbors are concerned that with the frequency that the older homes are being bought and torn down there will not be RS-2 zoning in the Bryn-Mawr subdivision and that is detrimental to the public good. Ms. Royster stated that she believes the hardship to be self imposed. The applicant bought the two properties with full knowledge of RS-2 zoning and is now fundamentally arguing to the Board that he does not like it. It is a self imposed hardship. The applicant is relying on a financial hardship and this is at best financial. The applicant wishes to maximize his profit. It is not an unnecessary hardship that the applicant is not able to maximize his profit. For these reasons the neighbors contend that the application failed at five of the six potential challenges. The neighbors respectfully ask the Board to deny the application.



**Bailey Word**, 2302 South Delaware Place, Tulsa, OK; had a drawing placed on the overhead projector showing the Bryn-Mawr subdivision with a portion showing PUD-826, which was filed several months ago asking for four lots on two RS-2 zoned lots and it was denied. The developer returned asking for three lots on two RS-2 zoned lots and it was granted. The developer has started construction. The neighborhood is not anti-development. All they ask is that the development comply with RS-2 zoning. The neighbors primary concern is that the neighborhood has been under seige from developers recently and have had to take a very aggressive position to preserve the integrity of the neighborhood. That is what the neighbors are here to do today, to preserve the integrity of the neighborhood.

**Gary Brewster**, 2323 South Delaware Place, Tulsa, OK; stated that he has lived in his home for 27 years. Mr. Brewster had some exhibits placed on the overhead projector and explained that everything is zoned RS-2 and the proposed construction would make the lots incompatible with Bryn-Mawr. That is irreversible damage on the neighborhood particularly because RS-2 requires a 75 foot frontage. Mr. Brewster stated that this application is 25.32 feet under the minimum requirement for all three lots. This application is attempting to establish an RS-3 zoning in an area that is zoned RS-2. The precedent is going to brought up every time from this day forward everytime someone wants to split a lot. If the Board approves this application there will be a precedent. That precedent would have far reaching implications by opening the door for other similar endeavors resulting in the further invasion in the residential area that deserve to be preserved. The requested Variance should be denied. The hardship is self imposed. The developer bought the property zoned for RS-2. The applicant created the hardship by his own doing and therefore it is inappropriate. There is an ongoing investigation in the stormwater flooding on the subject property. Mr. Gary stated that this application does not comply with Section 11 of the Tulsa Zoning Code. This application will impact livability standards, housing density and housing setbacks. The requested Variance should be denied.

**Paul Landis**, 2303 South Delaware Place, Tulsa, OK; stated he has lived in Bryn-Mawr for almost 19 years and this is the second time in nine months that his neighborhood has seen a developer attempt to encroach on the zoning code requirements. The neighborhood received the INCOG letter over the Thanksgiving holiday and immediately started a petition. The petition was done the old fashioned way, door to door. The petition requests that any development on the two lots comply with the RS-2 zoning including the lot width. A Planning Commissioner, Mr. Ted Reeds, stated at a previous hearing "that the only real reason developers request additional lots is to maximize their profits". The neighbors quickly collected 55 signatures the first weekend after Thanksgiving and presented the petition to the Board on December 8<sup>th</sup>. After a couple more weekends there were 80 signatures on the petition. Historical PUD-826 was a case where the developer wanted to take two RS-2 lots and cram in four RS-3 lots. The neighborhood said no, the Planning Commission said no 9-1, the City Council said no and sent it back to the Planning Commission. Eventually that application was withdrawn. In this case there are two RS-2 lots and the developer is attempting to make three RS-3 lots, but they are short by 25 feet which is almost double the difference

between RS-2 and RS-3 zoning. The developer is attempting to downgrade the neighborhood. Encroachment is not acceptable and it sets a bad precedent. There are no extraordinary conditions and there are no exceptional conditions or circumstances. The neighborhood is not opposed to new development, in fact, there is concrete being poured across the street today. In this case the neighbors respectfully request the Board of Adjustment members deny BOA-22005 so this development and future developments meet all RS-2 zoning minimum requirements including lot width.

**Rebuttal:**

Mr. Nathan Cross came forward and reiterated that despite what has been characterized as all of the lots conforming a person can look at the map and see that the lot does not conform. It does not have 75 feet of street frontage. He believes that is a mischaracterization. This particular little area is a unique area with a lot of unique lots.

**Comments and Questions:**

Mr. Van De Wiele stated that there is no doubt that the neighborhood was cut when the Broken Arrow Expressway and the railroad went in, so if the lot to the north or the lots that borders the Broken Arrow Expressway there may be a different result because those are definitely odd shaped. He is not sure if that would justify splitting them into something smaller than 75 feet. Mr. Van De Wiele stated that he is confused by the hardship. In reading the written presentation there seems as though there is a desire to put larger homes on the subject lots. He does not see a hardship in looking at the balance of the neighborhood and almost without exception they all seem to be the 100 foot wide by 160 feet deep. Mr. Van De Wiele stated that he does see a basis for justifying a lot split.

Mr. Henke agreed.

Mr. Flanagan does not see a hardship.

Mr. White agreed.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **DENY** the request for a Variance to reduce the permitted lot width in the RS-2 District to 65 feet on Tract A and B, and to 69 feet on Tract C (Section 403) to permit a lot split for lack of a hardship; for the following property:

**LT 8 BLK 3; LT 9 BLK 3, BRYN-MAWR, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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## NEW APPLICATIONS

### 20623-A—Strong 2021, LLC – Donna Boswell

#### Action Requested:

Modification of the conditions on a previously approved case, BOA-20623, to increase the time limitation to indefinitely; Modify the condition that the garage apartment to the east remain unoccupied except for accessory storage to the Use Unit 11 activity. LOCATION: 1303 East 17<sup>th</sup> Place South (CD 4)

#### Presentation:

**Bob and Donna Boswell**, 4655 South Columbia Avenue, Tulsa, OK; stated the structure is being occupied as an office as it has been since the original case was approved in 2008. He and his wife would like to continue in the same manner as it has been occupied and used. Currently the small space above the garage is not occupied but it could potentially have a bathroom to use as an apartment for their son if possible. The structure is currently in a multi-family district.

Mr. Henke asked if the office was downstairs with living upstairs. Ms. Boswell stated that the downstairs is a waiting area with a conference room and reception, and a clinical office upstairs. Mr. Boswell stated that is the main structure. The garage has a very small space above it that they would like to convert to an apartment for their son.

#### Interested Parties:

**Chip Atkins**, 1638 East 17<sup>th</sup> Place, Tulsa, OK; stated that he has been involved in this projection since it became the time limit on limitation. He is a little confused about the modification, because the modification says the garage apartment to remain unoccupied except for accessory storage and now there is someone moving into it. Is this a change in the item?

Mr. Van De Wiele stated the applicant wants to modify the condition that the garage apartment remains unoccupied. Mr. Atkins stated that it does not state that because it says except for accessory storage. Mr. Atkins asked where the modification is that says the garage apartment is going back to a garage apartment. Mr. Van De Wiele stated that is what the applicant is requesting. Mr. Atkins stated that it does not state that and he was not aware of that until today.

Mr. Van De Wiele asked staff what the notice stated. Ms. Miller stated the notice says, "to modify the condition that the garage to the east remains unoccupied except for accessory storage". Mr. Van De Wiele stated that there was a condition that the garage apartment remains unoccupied and only used for storage, and now the applicant wants to modify that condition. Mr. Atkins stated that was not in the application and what was advertised; that is what he is confused about. Ms. Miller stated that what was meant by the notice is that the applicant wants to modify the condition and the condition was that the garage apartment to the east remains unoccupied except for accessory storage. It

is the modification of that condition. Mr. Van De Wiele asked what the reading would be otherwise. Mr. Atkins stated that the neighbors had no idea and he had no idea and was not aware of the subject building going back to a garage apartment from storage in reading that notice.

Mr. Henke asked Mr. Atkins if he was opposed to the garage apartment being occupied. Mr. Atkins stated that he is only trying to make sure that everything is clear before he gets to his point. Mr. Atkins stated that this is an office and always has been an office; it is a multi-family use. The neighbors are asking that the five years remain because this is a new business. The neighbors do not know how the business is going to affect the traffic in the area. The neighbors are for the modification even if it is going to be used as a garage apartment because that is part of the RM-2 zoning which is permitted in Swan Lake. Mr. Atkins requests that the time limitation be reinstated and not be indefinite for the office because it is still zoned RM-2 not office use. Mr. Atkins stated that the he is not opposed to the garage apartment because he believes that is the applicant's right to have the apartment under the RM-2 zoning.

**Rebuttal:**

Mr. Bob Crowell came forward and stated that he can understand the concern about the change in the impact based on the prior occupancy versus his intent. This is a small office. Mr. Van De Wiele asked what type of office it will be. Mrs. Boswell stated that she is a licensed social worker in private practice, so it will be primarily families. It is typically one parent and child at a time. There is an occasional consultation with two attorneys. The business is not a high traffic business. Her hours are 8:00 A.M. to 4:00 P.M. so there will not be high traffic. Mr. Boswell stated that 80% of the time his wife is out of the office and there is ample parking.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the request for a **Modification** of the conditions on a previously approved case, BOA-20623, to extend the time limitation to ten years from this date, January 12 2026; **Remove** the condition that the garage apartment to the east remain unoccupied except for accessory storage to the Use Unit 11 activity. The ten year time limit will apply to the use. Finding it necessary and reasonably related to the request to ensure the proposed modifications are compatible with and non-injurious to the surrounding area, and meets the previously granted Board relief and meets the zoning requirements per Code; for the following property:

**LT 9 BLK 24 & 10' VAC ALLEY, ORCUTT ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

## 22006—Ralph Sandmeyer

### Action Requested:

Variance of the allowed structure height in the RS-1 District from 35 feet to 40 feet (Section 403, Table 3); Special Exception to increase the allowable fence height in the required front yard from 4 feet to 6 feet (Section 210.B.3). LOCATION: 4321 South Lewis Avenue East (CD 9)

### Presentation:

**Ralph Sandmeyer**, 16709 East 47<sup>th</sup> Street, Tulsa, OK; stated he is the General Contractor on the project and is before the Board on behalf of his client. Since the 1990s much of the residential construction in Tulsa has used the higher plate heights. Currently there are heights of nine and ten feet on the first floor elevations and eight or nine feet on the second floor elevations with a 12-12 pitch roof. This makes many of the two-story buildings in excess of 35 feet. Many of the newer PUDs in the City of Tulsa have recently increased the allowable building height to 40 feet. PUD-780, The Boulevard, and PUD-793, Sunset Hills, have the allowable 40 feet. If this is approved the overall structure height will be 39'-8" for the two-story dwelling. There are many houses in the Greenhill Subdivision, PUD-637, that are similar construction and have a 10 foot first floor plate and a nine foot second floor plate and 12-12 pitch roof.

Mr. Van De Wiele asked how far back on the lot is the proposed structure? Mr. Sandmeyer stated that is 120 feet back with the lot overall being 280 feet deep and 165 feet wide.

Mr. Van De Wiele asked Mr. Sandmeyer what type of fence is going to be erected. Mr. Sandmeyer stated that it is a wrought iron fence with stone columns.

### Interested Parties:

There were no interested parties present.

### Comments and Questions:

None.

### Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the request for a Variance of the allowed structure height in the RS-1 District from 35 feet to 40 feet (Section 403, Table 3); Special Exception to increase the allowable fence height in the required front yard from 4 feet to 6 feet (Section 210.B.3), subject to conceptual plans 8.12, 8.13, 8.14 and 8.15. This approval is also for a wrought iron fence with stone columns. Finding that this overly large lot, which is over twice the size of the minimum RS-1 required lot, is large enough to house a dwelling unit that is 40 feet in height and that there are other homes in the immediate area that are also in excess of the 35 foot requirement. Also, finding the fact that the property sits on Lewis Avenue to be further justification for the fence requested. 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 10 BLK 1, 41ST STREET & LEWIS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**22007—David Peck**

**Action Requested:**

Verification of the 300 foot spacing requirement for an Adult Entertainment Establishment (Use Unit 12a - bar) from another Adult Entertainment Establishment, church, school, or public park; Verification of the 50 foot spacing requirement from the R District (Section 1212a.C.3). **LOCATION:** 1004 East 4<sup>th</sup> Street South **(CD 4)**

**Mr. Henke recused himself and left the meeting at 3:26 P.M.**

**Presentation:**

**David Peck**, 3764 East 48<sup>th</sup> Place, Tulsa, OK; stated he is the owner of Dead Armadillo Brewery located at the subject address. The brewery is up and running at the location, but he is sub-leasing the front of the building to another company that is going to start a bar. It will basically be a tap room so people can visit the brewery and sample the beers.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-1 (Flanagan, Van De Wiele, White "aye"; no "nays"; Henke "abstaining"; Snyder absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant's verification of spacing for the proposed adult entertainment establishment subject to the action of the

Board being void should another conflicting use be established prior to this adult entertainment establishment; for the following property:

**N 1/2 LT 4 ALL LT 5 & S. 30 LT 6 BLK 15; S1/2 LT 4 BLK 15, HODGE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. Henke re-entered the meeting at 3:28 P.M.**

**22008—Stephen Jones**

**Action Requested:**

Variance of the allowable height for a detached accessory building in the RS-2 District (Section 210.B.5.a). **LOCATION:** 6001 East 104<sup>th</sup> Street South **(CD 8)**

**Presentation:**

**Stephanie Jones**, 6001 East 104<sup>th</sup> Street, Tulsa, OK; stated this request is for a detached garage to store her RV. The home owner's association requires that an RV only be allowed in a driveway for no more than two days, so she is keeping the RV in Sapulpa at a storage facility. She would like to be able to build a garage on her property to store the RV on her property. Ms. Jones stated that she has been parking her RV at the end of her driveway, which is an exceptionally long driveway, and it can barely be seen from the street. She submitted her architectural plans to the home owner's architectural committee and they said they would overwhelmingly approve the plan.

Mr. Van De Wiele asked Ms. Jones how tall the structure needs to be. Ms. Jones deferred to her architect.

**J. R. Mills**, 10306 South 237<sup>th</sup> East Avenue, Broken Arrow, OK; stated the garage will be on a slab and approximately 22 feet at the peak. The houses around the garage are high roofed and much higher than the proposed 22 feet.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the request for a Variance of the allowable height for a detached accessory building in the RS-2 District (Section 210.B.5.a), subject to conceptual plans 11.8, 11.9 and 11.10. Finding the hardship is the significant depth of the lot and the structure is going to be set back from

the line of sight from the street. This will allow the RV to be in compliance with the neighborhood association requirements. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**LT 11 & PRT LT 12 BEG 148.11 NW SWC LT 11 TH NW91.53 S81.59 NE58.22 NE6.77 POB BLK 1, FOREST PARK SOUTH 2ND, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. Flanagan left the meeting at 3:34 P.M.**

**22009—Crown Neon Signs – Gary Haynes**

**Action Requested:**

Variance to allow a digital sign within 20 feet of the driving surface of a street (Section 1221.C.2.b); Variance to allow a digital sign within 200 feet of the R District (Section 1221.C.2.c); Variance to allow a sign within the planned right-of-way as designated on the City of Tulsa Major Street and Highway Plan (Section 1221.C.14). **LOCATION:** 3400 East Admiral Place North **(CD 4)**

**Mr. Flanagan re-entered the meeting at 3:36 P.M.**

**Presentation:**

**Thomas Conklin**, 3741 East 4<sup>th</sup> Place, Tulsa, OK; stated he has contracted with Crown Neon Signs to bring an unused unlit sign up to Code. The sign is 18'-2" from Admiral Place. The new sign will be used to display positive messages, scripture and information for the neighborhood. The congregation has been in existence since the 1940s and the subject property use to house a trash hauler and a maintenance facility. That was razed and made into parking space. The congregation is also open when the American Red Cross needs to house people. Mr. Conklin stated that the hardship is that moving the pole would be very difficult to do as well as losing parking space. Mr. Conklin stated that they want to use the same sign and install a lit portion.

Mr. White asked Mr. Conklin how long the pole has existed in the current place. Mr. Conklin stated that it was there when the congregation acquired the property and put in the parking lot; over 30 years.



Mr. Van De Wiele asked Mr. Conklin if there were any residential uses in the 200 feet from the residential district. Mr. Conklin stated that on the arterial street there is an empty street that the congregation owns and maintains, and three residential properties.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Variance to allow a digital sign within 20 feet of the driving surface of a street (Section 1221.C.2.b); Variance to allow a digital sign within 200 feet of the R District (Section 1221.C.2.c); Variance to allow a sign within the planned right-of-way as designated on the City of Tulsa Major Street and Highway Plan (Section 1221.C.14). The Board has found that the sign to be installed will be a replacement on an existing pole that has been on the property for at least 30 years. The sign will be used, at least in part, to communicate information and messages to the neighborhood and the congregation, and the residential area within 200 feet is either owned by the applicant and not used for residential purposes; the only residential use appears to be in excess of 200 feet and will not likely be impacted from a visibility standpoint. This approval is subject to the condition that the LED portion of the sign only be operable between the hours of 7:00 A.M. and 9:00 P.M. This approval is “as built” as far as location of the pole and subject to the conceptual plan on 12.13 showing the size of the sign on the pole. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**LT 1 BLK 1, CROSSTOWN CHURCH OF CHRIST RSB PT B2 & 3 WALNUT PARK  
ADD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. Van De Wiele left the meeting at 3:44 P.M.**

**22010—Louis Coleman**

**Action Requested:**

Variance of the required front yard setback in the RS-3 District (Section 403, Table 3). **LOCATION:** 1804 South Quaker Avenue East **(CD 4)**

**Mr. Van De Wiele re-entered the meeting at 3:46 P.M.**

**Presentation:**

**Tom Neal**, 2507 East 11<sup>th</sup> Place, Tulsa, OK; stated he is before the Board representing Sharon and Louis Coleman. He is designing a new old house to go into the Swan Lake neighborhood. The old house was non-conforming and was demolished with permission from the Preservation Commission. The Variance is just to reduce the required front yard to conform to the existing. There is a single house to the west and it is 14'-6" from the base of the porch to the property line. The three properties to the north vary and all are less than the required 25 foot setback in RS-3. There are houses across Quaker Street with setbacks that are greater than required for the front yard.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the request for a **Variance** of the required front yard setback in the RS-3 District (Section 403, Table 3), subject to conceptual plan 13.9 for the dimensions. Finding the hardship in this case is that the HP requirement of meeting the setback of the adjacent structures on the same side of the street which dictates that this be significantly less than the normal RS-3 requirement. 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:

**E 65 OF LT 7 BLK 25, PARK PLACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**22011—Tanner Consulting**

**Action Requested:**

**Special Exception** to permit a fence taller than 4 feet in the required front yard in the RS-1 District (Section 210.B.3). **LOCATION:** 4920 East 105<sup>th</sup> Street South (CD 8)

**Mr. Van De Wiele recused and left the meeting at 3:49 P.M.**

**Presentation:**

**Daniel Ruhl**, 4920 East 105<sup>th</sup> Street, Tulsa, OK; stated his neighborhood is an old neighborhood that was built in the 1920s, and there are new houses and old existing houses in the neighborhood. The house at 4917, which is across the street, has a four foot fence with columns that are approximately six feet. The house directly east of the subject property has a six foot fence in the front yard as well six foot columns all the way across. What he has a four foot fence with five foot columns at the place where the driveway goes through the fence. There are no street lights on the subject street and it is the entrance to the neighborhood better known as the miracle mile. There is a lot of traffic because the street feeds into all the back neighborhoods all the way to Sheridan. He is only asking for a Variance on five columns at five feet each.

Mr. White asked Mr. Swiney if the journal entry from the District Court included this case which is before the Board today. Mr. Swiney stated that it was a separate case which was appealed to the District Court in the same neighborhood.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 3-0-1 (Henke, Flanagan, White "aye"; no "nays"; Van De Wiele "abstaining"; Snyder absent) to **APPROVE** the request for a Special Exception to permit a fence taller than 4 feet in the required front yard in the RS-1 District (Section 210.B.3), subject to conceptual plan 14.12. 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:

**E122.57 LT 5 BLK 3, COUNTRY GENTLEMEN ESTATES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. Van De Wiele re-entered the meeting at 3:53 P.M.**

## **22012—Tyler Outdoor Advertising**

### **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:** 222 North Garnett Road East (CD 3)

### **Presentation:**

**Dax Neal**, 1416 East 19<sup>th</sup> Street, Tulsa, OK; no formal presentation was made by the applicant.

Mr. Henke stated that the Board was in receipt of the survey on page 15.9.

### **Interested Parties:**

There were no interested parties present.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder 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 and/or standard outdoor advertising sign be constructed prior to this sign; for the following property:

**LT 2 BLK 1, SANDERS-ENGLAND FIRST ADDN AMD RESUB PRT B1 HOLIDAY PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

## **22013—Andy Fritz**

### **Action Requested:**

Variance to increase the maximum permitted square footage of detached accessory buildings on an RS-3 lot (Section 402.B.1.d); Variance to allow two unconnected driveways in the required front yard in the RS-3 District (Section 1301.C). **LOCATION:** 2017 West 91<sup>st</sup> Street South (CD 2)

**Mr. White recused.**

**Presentation:**

**Andy Fritz**, 2017 West 91<sup>st</sup> Street, Tulsa, OK; stated he is the owner of the subject property. Mr. Fritz stated that he has an engineered, permitted, inspected and completed accessory building in the side rear yard of the subject property. He has discovered since that the subject property is in the City limits. However, the County did accept, approve and inspect the subject structure all the way through to completion. On substantial completion he received notice from a City Inspector who was passing by that there was not a City permit for the subject structure. Mr. Fritz stated that he thought the Inspector was in error because he had a permit in hand. He also had County personnel come to the property and install the driveway whistles in addition to the material between the property line and the street. Mr. Fritz feels he is stuck in a situation. Mr. Ho at the City Development offices has instructed him to apply for the Variances in order for him to be able to accept the County's permit based on what happened. Mr. Henke stated that the Board has received the applicant's outline of the saga.

Mr. Van De Wiele asked Mr. Fritz what the square footage of the house is. Mr. Fritz stated that it is approximately 2,700 square feet. Mr. Fritz stated that he would have been allowed a 1,099 square foot structure through the City permit process. Mr. Van De Wiele asked Mr. Fritz if that was the 40%. Mr. Fritz answered affirmatively and stated that the structure ended up being 2,880 square feet.

Mr. Fritz stated that the reason for the non-connecting driveway is because the structure was built as permitted with a square acre lot of 208 and 208 with AG land surrounding the subject property, and there didn't seem to any reason at the time to connect the driveways.

Mr. Henke asked staff if the new City Zoning Code would have any impact on this case. Ms. Miller stated that in reading the request and looking at the Code the maximum square footage is the same so it does not change. Ms. Miller stated that the new Code no longer has the language referring to unconnected driveways so that Variance may not be needed if this were under the new Code.

Mr. Swiney asked Mr. Fritz if he thought he was outside the City limits. Mr. Fritz answered affirmatively. Mr. Swiney asked Mr. Fritz if the County thought he was outside the City limits. Mr. Fritz answered affirmatively and stated there was no conversation about that fact. His Morton Building representative took the application with the engineered plans to the County and County accepted them, issued the permit and the County Inspectors came and inspected the process and upon substantial completion of the structure is when he was notified by the City that he was in violation.

Mr. Fritz stated that he and his wife have lived in the house almost two years and bought the property with the sole intention of building a shop like he had constructed. Mr. Fritz stated that he is still not convinced that he is in the City limits even though he has had legal look into the background of the property. In 1979 there was Voter District document that was published that absorbed his area into Tulsa City limits but there was no official City annexation.

Ms. Miller stated that RS-3 is not a County zoning district. That is what staff was confused about; why County would not question the zoning.

Mr. Fritz stated that it seems blatantly obvious that the fault lies with the County. Mr. Fritz stated that the language reads that it would ultimately be his responsibility as the home owner, but once jurisdiction takes responsibility and issues a permit he felt that everything was on the up and up, in addition to contacting the County Commissioner's office to orchestrate the driveway installations; once again, another County procedure on a City street on City property.

Mr. Van De Wiele asked Mr. Fritz if the property across the street was in or out of the City limits. Mr. Fritz stated that the property across the street is in the City of Jenks.

**Interested Parties:**

**Paul Crocker**, 6846 South Canton Avenue, Suite 200, Tulsa, OK; stated he Counsel for Mr. and Mrs. Sullenger whom reside at 1901 West 91<sup>st</sup> Street. The primary concern lies in the fact that Mr. Fritz states he is in the City of Tulsa but if anyone should know where he is it is a surveyor. Mr. Crocker stated that Mr. Fritz is a professionally licensed surveyor, he conducted the survey and his application, and for him to claim ignorance is unacceptable. This is not a small Variance being requested; Mr. Fritz is requesting the building be 250% of the allowed size. Mr. Crocker stated that he sees no nearness, shallowness or any peculiar unique element to this property that would create any sort of hardship.

Mr. Van De Wiele asked Mr. Crocker where his clients lived. Mr. Crocker stated that his clients own property directly to the east of Mr. Fritz. Mr. Crocker stated that the Sullengers used to be able to look out their back windows to see pasture land and now all they see is the broadside of a barn. Mr. Crocker stated that Mr. Fritz has been using the structure to conduct his surveying business. Workers arrive approximately at 6:30 virtually every morning, gather supplies, leave, and come back throughout the day. There are security lights that shine into the homes directly to the south. Mr. Crocker had pictures placed on the overhead projector showing the subject property. Mr. Crocker stated that he believes the dirt work started in June and that in July Mr. Sullenger, prior to the 4<sup>th</sup> of July, advised Mr. Fritz that the subject property was in the City of Tulsa and if they wanted to shoot off fireworks they could be subject to receiving a ticket.

Mr. Van De Wiele stated that it appears the Sullengers were well documenting the construction of the subject building so why wait until now. Why not call the City to have a stop work order issued? Mr. Crocker stated that he believes there were some calls placed to the City but the Sullengers can answer that question better. Mr. Crocker stated that Sullengers did go by and saw a permit; they assumed that everything was in order but they did not go read to see that it was only a County permit or to see that there was not City permit.

Mr. Van De Wiele stated that Mr. Crocker made a point about Mr. Fritz being a surveyor, but the survey was performed after the fact.

**Dennis Snow**, 1916 West 91<sup>st</sup> Street, Tulsa, OK; stated he lives directly south of the subject building. Mr. Snow that when he saw the beginning of the construction he was curious as to what it was going to be so he made a phone call to a retired fire fighter friend and who works for the City, Terry Whitely. Mr. Whitely referred Mr. Snow to Dale Gero, who is a supervisor in the Inspections Division, who promptly referred to Terry Dexter who is Mr. Gero's assistant, who referred Mr. Snow to Curtis Blevins. Mr. Snow stated that he called Mr. Blevins and spoke with him on several occasions about what was being built across the street. Mr. Snow stated that Mr. Blevins informed him that he did not have anything. Mr. Snow informed Mr. Blevins that there was something going in and it was his area because he had red tagged the church that was being built just east of the subject property. Finally Mr. Blevins stated that it was a building and that he would go check on it. Mr. Snow stated that as far as to why the neighbors waited this long is that they have not waited this long because he has been in contact with the City Inspectors several times and when he found out it was a business and the size of the business that is when he became concerned. There was no waiting this long, it has been brought to the City Inspectors attention well before October.

Mr. Van De Wiele asked Mr. Snow to give a timeline as to when the calls were being made and making contact, and when the building went up. Mr. Snow stated that he started calling when the construction started but he is not sure when the construction started but it was in the summer. Mr. Snow stated that he walked across the street to see if he could see if someone could tell what the building was for and a man on the property told him it was Mr. Fritz's business. Mr. Snow stated that Mr. Fritz is running his business out of the subject building and he has office space in the downstairs and storage upstairs. The building is 60 x 48 which has already been discussed. The main problem, to him, is the size of the building and the fact that it is in the City limits, but if Mr. Fritz is a surveyor Mr. Snow would think that he would know he is in the City limits. Mr. Snow stated that he knew where the City limit was before he built the three houses across the street. Mr. Snow stated that he thinks the idea of asking for forgiveness instead of permission is what the issue is in this case. Mr. Snow stated that he does not like being here because this is a good neighborhood and everyone gets along, but no one likes this situation. Mr. Snow stated that he even called Mr. Blevins to tell him that the slab was being poured and asked Mr. Blevins if he was going to allow the land owner to spend all that money if he is not in compliance. Mr. Blevins stated that it would not hurt his feelings to tell them to raze the whole project because he had given them ten days.

Mr. Henke asked Mr. Snow if anyone had communicated with Mr. Fritz; all the communication with the City and the neighborhood is great with everyone being neighborly but no one went over to knock on Mr. Fritz's door? Mr. Snow stated that Marvin Sullenger had.

**Janelle Robison**, 1908 West 91<sup>st</sup> Street, Jenks, OK; stated she lives just south and one driveway east of the Fritz property. Her property is the lowest land compared to the other properties so she is always concerned with water runoff. Ms. Robison stated that when they started moving dirt, because there was so much dirt being moved, she thought the Fritz's were building a swimming pool. Ms. Robison stated that her husband did go over to the Fritz's and asked them what they were doing. Ms. Robison stated that she knew that the subject property was in the City limits and knew a business was not allowed in the residential district but she did not see any zoning request. The owner of Morton Building applied for the permit with Tulsa County and she would think that a man that has been in business for years would have better sense than to pull this; he knows because he has built throughout the area. Ms. Robison stated that Mr. Fritz would have known he was inside the City limits because his first property tax bill would have very clearly stated such. There is a church on the other side of the street that has tried to build and their project was stopped, and on the same day when Mr. Blevins issued the cease work order he approached Mr. Fritz about being in the City limits. Ms. Robison stated that she spoke with Mr. Blevins after he visited with Mr. Fritz and Mr. Blevins told her that he had informed Mr. Fritz that he had ten days to comply with the City but Mr. Fritz continued to pour concrete.

Mr. Van De Wiele asked Ms. Robison if she thought there was a ten day notice issued while the concrete work was being done. Ms. Robison answered affirmatively.

Ms. Robison stated that Mr. Fritz has been running his business out of the subject building and businesses do not belong in a residential area. This will set a precedent for anyone else that wants a business on their property and that is not what the area is zoned for. Ms. Robison stated that the subject building is so close to Mr. Sullenger's property that she was absolutely flabbergasted that anyone would stick something like that so close without speaking to the neighboring property owner. Ms. Robison stated that she feels this whole episode has been underhanded from the start. Ms. Robison stated that she had also spoke with the County Inspector who told her that Mr. Fritz had to prove the project had been signed off on. Ms. Robison asked the County Inspector if he knew that the property was in the City limits and his response was that he knew now. Ms. Robison stated that she does not believe there is a hardship in this case.

Mr. Henke asked Ms. Robison if she had just heard about the letter from the Inspector when the concrete was being poured or had she seen it. Ms. Robison stated that she spoke face to face with Mr. Curtis Blevins. Mr. Henke stated that for him this information is an important piece of the puzzle.

Ms. Robison stated that the neighbors did not receive any notice until the Board of Adjustment notification, and she asked the Board if the County should have notified the people living in the 300 foot radius. Mr. Van De Wiele stated that if a person receives a building permit, as long there is no extra relief needed no one else will know about the construction.



**Marvin Sullenger**, 1901 West 91<sup>st</sup> Street, Tulsa, OK; stated that the neighbors really thought the City would protect them. They were surprised that it was done through the County. Mr. Sullenger stated that he did see the City Inspector put up a "Cease and Desist" on the church and then go over to the Fritz's and spoke with the bulldozer operator; this was before the building was erected but the dirt work was being done. He assumed everything was okay at that time.

**Rebuttal:**

Mr. Andy Fritz came forward and stated that he meant no ill will. Mr. Fritz stated that he is a professional land surveyor. He did receive several proofs of evidence from INCOG and spoke with them at their computer to verify the City limit line. The maps that were reviewed on that day had the City limit line a half mile north of his property.

Mr. Van De Wiele asked Mr. Fritz when this had been done. Mr. Fritz stated that he had not come prepared to plead his case he thought his case had already pleaded. Mr. Van De Wiele asked when in relation to building construction did this take place. Mr. Fritz stated that he believed the permit was received in April from the County; the building was delivered in late May to June and with this particular structure it is a pole barn. The columns go into the ground to support the structure so concrete can be poured shortly thereafter or never. Mr. Fritz stated that he still has never spoke face to face with Mr. Blevins.

Mr. Van De Wiele asked Mr. Fritz when he spoke to staff at INCOG and found out the City limits were a half mile north. Mr. Fritz stated that Mr. Blevins came by and left the notice with the Morton crew and he has never had a legal representative on site to speak for him so he does not know who the neighbors are referring to when they spoke, and Mr. Marvin Sullenger has been involved in the process from the beginning because he tried to purchase an acre of land behind the property so he could place the shop in the rear but a price could not be agreed upon. So he tried to put the building on the northwest corner of the property but there was not enough room, so the only other logical place was the huge side yard. Mr. Fritz stated that he told Mr. Sullenger that were his plans so he would be aware. Mr. Sullenger even came over and took a tour of the building and inquired about the electric lights inside the building because he wanted to get some for his shop. So it is very surprisinig to him today that there are neighborly issues.

Mr. Henke asked Mr. Fritz if he was communicating with the neighbors. Mr. Fritz answered, "absolutely". Mr. Fritz stated that he has never spoke to the lady sitting on the end in the audience but Marvin let him know that she is the kingpin of the neighborhood. The neighbors are making it sound like he intentionally duped the City into letting him build the building to get away from City permitting, which is not at all the case. Mr. Fritz stated that he took his case to the County and if the checks and balances been in place they would have told him that he needed a City permit. Mr. Fritz stated that if had been the case he probably would not have built the building but sold the property instead. He grew with a shop building and has worked out of his home as a land surveyor since 2008 and he has three employees who are his retired father, his

brother who lives in Colorado and an additional employee who comes to the house in the morning to get his paperwork. This employee rarely shows up before 7:00 but Monday morning he showed up at 6:30 because he had to go to Ardmore. This employee drives one truck and is usually gone in twenty minutes. Home occupation offices are allowed in certain districts so he is not sure what the issue is with that. Mr. Fritz stated that the building was permitted through the County by no false intentions of his own, accepted and inspected by the County and Mr. Ho at the City has decided they will accept the building permit as long as he has a water shed permit, which he has, and a zoning review which led to this Variance request. The City understands that this was a situation that is very unique and that it does not happen very often, and now he is going through the paces to follow any laws. Mr. Fritz stated that he used to work for Morton Buildings in Colorado. He knew the structure and knew how to manipulate it to get it to be a beautiful structure and be very useful. So that is why the structure is what it is. He always wanted a building as big as he wanted and that is why it is the size it is. Mr. Fritz stated that he had the lot, he had the permits, had the County do the driveways and everything was in line. Mr. Fritz stated he does not know where else to go with this. Mr. Fritz stated that upon receiving a stop work order from Mr. Blevins, he contacted the City and initiated the contact list and was continually referred, referred, and referred until he had to beg and plead to talk with Mr. Ho.

Mr. Van De Wiele asked Mr. Fritz if the building was up when he received the stop work notice. Mr. Fritz answered affirmatively. Mr. Van De Wiele asked if it was 100%, 90% or what. Mr. Fritz stated the structure was up and the prep work for concrete was being done and there was interior work being done.

Mr. Henke asked Mr. Fritz if in the completion of the project he was 90% complete. Mr. Fritz stated that the structure was erected, absolutely.

Mr. Fritz stated that he contacted the City within the ten day period and actually it was the very next day. It took the City 12 days because he called them after 12 days. They didn't realize they had not called him back so up the ladder he had to go once again.

Mr. Van De Wiele asked if the stop work notice came at the tail end of the project. Mr. Fritz answered affirmatively. Mr. Van De Wiele asked Mr. Fritz if he had a copy of the stop work order notice. Mr. Fritz stated that all he has is approved inspection and the County permit.

Mr. Henke stated that what the Board is lacking is the documentation and exhibits for this case. He understands where the neighbors are coming from; not everyone likes to have a red metal building out their window. Mr. Henke is wondering how we got to this point today because everybody seems to be neighborly so it is confusing. Mr. Henke stated that he is interested in seeing the correspondence from the City and putting together a more firm time line, and to see whether Mr. Blevins can shed some light on the situation. Ms. Miller stated that she can contact Mr. Curtis Blevins to have him attend the next meeting. Ms. Miller stated that she heard about this case and asked Mr. Fritz if he had received anything in writing from INCOG because she finds it hard to

believe because the entire staff is super clear that RS-3 is not a County designation because they do not have numbers after their residential designations. Even if a person does not know where the boundary is that designation is a sign in and of itself. Ms. Miller stated that she is not convinced that INCOG staff told Mr. Fritz the City limits were a half mile north, and she had heard from Mr. Yuen Ho as well. Ms. Miller stated that INCOG staff is very familiar with the County Inspectors as well and this seems so unbelievable that this could have transpired when the County would have seen the RS-3 designation knowing they do not have that designation in their boundaries.

Mr. Van De Wiele stated that he is inclined to ask the Board to continue this case for a couple of weeks to be able to build a time line, because he remembers one or more cases when there have been issues with different City or County governments permitting conflicting uses. That general scenario, he can see that being a basis for a hardship. That being said, if someone told him to stop and the project went forward then he may have a different opinion.

Mr. Fritz stated that he did follow suit and he did call as instructed and they are the ones that lagged and did not get back with him because they did not know what to tell him. Everytime he spoke to a representative they just did not know what to tell him.

Mr. Van De Wiele stated that as for the driveways not being connected, he has less than a problem because the new Zoning Code will not require that but there may be more concrete than what the new Zoning Code allows. Mr. Fritz stated that he did receive a water shed permit from the City if that covers that issue. Mr. Van De Wiele stated that there are issues here that need to resolved.

Mr. Henke informed Mr. Fritz that he is allowed a building that is 1,099 square feet and he has a building that is 1,781 square feet over built. Mr. Fritz acknowledged that fact. Ms. Miller stated that the County has the same regulation in the RS Districts regarding the 40%, so it is the same regulation.

Mr. Henke stated that the County erred, whether it was a County permit or a City permit the County granted the permit and they are bound by the 40%. Ms. Miller acknowledged that fact because the County RS Districts are bound by the same restriction; the County may have assumed that it was an AG zoned property.

Mr. Van De Wiele stated the Board and staff needs some time to dig into the background of this situation.

Mr. Fritz asked the Board what the end result would be if the Variance were approved or not. Mr. Henke stated the Board wants to continue the case until at least the next meeting unless more time is needed. Mr. Fritz stated that he is the victim of the crime.

Mr. Swiney asked Mr. Fritz if anyone had ever spoke to him about operating his business on a residential lot. Mr. Fritz stated that he has worked at home since he was licensed in 2008. He moved from mid-town to the subject property and his office is in

the living room, and now there are too many files to stay in the house any longer. His survey business has been very successful and is growing. Mr. Fritz stated that there has been no discussion. Mr. Swiney stated that the building is an office building. Mr. Fritz stated the building is an accessory building. It houses wooden stakes and boxes of flags that the employees come in to retrieve and the employees place their batteries on charge which takes up about ten square feet of the building. Mr. Fritz stated that he has four vehicles, nine motorcycles and 14 bicycles in the building so he has a need for the space.

Mr. Henke asked Mr. Fritz if he was not allowed to operate a business out of the building and had to find another place to operate what would he do. Mr. Fritz stated that if the rules stipulate that it will be fine.

Mr. Van De Wiele asked staff is a survey business was in the list of home occupations. Mr. Swiney stated that it is not listed as a home occupation. Mr. Fritz stated that he would not be surprised by that, but he has no clients, no customers, no public space, it is only him and his guys and his computers. It is a business but it is not a business.

Mr. Henke stated the Board needs to figure out the building first and after that has been tackled, if the building is approved the next bridge will be crossed.

Mr. Fritz asked if the City Inspector will be attending the next meeting. Mr. Henke acknowledged that he would be in attendance. Mr. Fritz stated that he would also like to request that the County personnel who issued the permit attend the next meeting. Ms. Miller stated that she will speak with them. Mr. Fritz stated that he believes everyone needs to be in the same room. Ms. Miller stated that she will ask them.

Mr. Henke asked Mr. Fritz for the name of the person at the County. Mr. Fritz stated there were two or three personnel at the County. Once the problem arose he went back to the County and informed them of the problem and asked their advice. The lady told him since the building was already there he should move forward. Ms. Miller asked Mr. Fritz if the person was female. Mr. Fritz stated there was an African-American male who seem to be the director of the department and a lady; they were standing shoulder to shoulder so there was no miscommunication.

Mr. Henke asked Ms. Miller for the names of the County staff. Ms. Miller stated that it would be Teresa Tosh and Terry West.

Ms. Moyer stated that one of the interested parties that submitted information is a Mr. Harry Creech, who was the County Inspector who signed off on the permit. Ms. Miller stated that Harry Creech is a County Engineer.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-1 (Henke, Flanagan, Van De Wiele "aye"; no "nays"; White "abstaining"; Snyder absent) to **CONTINUE** the request for a Variance to increase the maximum permitted square footage of detached accessory buildings on an RS-3 lot (Section 402.B.1.d); Variance to allow two unconnected driveways in the required front yard in the RS-3 District (Section 1301.C) to the Board of Adjustment meeting on January 26, 2016; for the following property:

**BEG 25N OF SWC SE SE TH N208.7 E208.7 S208.7 W208.7 POB SEC 15 18 12,  
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. White re-entered the meeting.**

**Ms. Miller left the meeting at 4:40 P.M.**

**22014—Jessie Colmenero**

**Action Requested:**

Special Exception to permit a duplex in the RS-3 District (Section 401, Table 1); Variance of the minimum lot area for duplexes in the RS-3 District to 7,800 square feet (Section 404.C); Variance of the required setback from East Pine Street in the RS-3 District (Section 403, Table 3); Variance of the required rear yard setback in the RS-3 District (Section 403, Table 3). **LOCATION:** 1503 North Louisville Avenue East **(CD 3)**

**Ms. Miller re-entered the meeting at 4:42 P.M.**

**Presentation:**

**Jessie Colmenero**, 1503 North Louisville Avenue, Tulsa, OK; no formal presentation as made but the applicant was available for any questions.

Mr. Henke asked Mr. Colmenero if there were other duplexes in the neighborhood. Mr. Colmenero stated there were not.

Mr. Henke asked Mr. Colmenero to tell the Board about his application. Mr. Colmenero stated that he purchased the property at Auction.com. There was fire damage to the house and he tried to repair the fire damage but it was over 25% so he demolished the structure.

Mr. Van De Wiele asked if the structure was a duplex prior to the fire. Mr. Colmenero stated that it was a single family residence. Mr. Colmenero stated that after he

demolished the house he thought he would replace it with a duplex. Mr. Colmenero stated that when he demolished the fire destroyed house he removed the foundation and everything. He was then advised that he had to be so many feet away from the middle of Pine Street.

Mr. Van De Wiele asked Mr. Colmenero if the plan on page 17.13 was what he is proposing to build. Mr. Colmenero answered affirmatively.

Mr. Colmenero stated that the neighbors expressed that they are for the project and that this is an under developed area.

Mr. Van De Wiele asked Mr. Colmenero if the duplex were to be two bedroom. Mr. Colmenero stated that the duplex would be two bedrooms and two bath on each side.

Mr. White stated that the aerial photograph on page 17.6 is almost two years old but it shows the previous house and it looks like there was almost a 15 foot side yard at that time. Mr. White stated there are duplexes in Louisville Heights.

Mr. Flanagan asked Mr. Colmenero if there is going to be a garage for the duplex. Mr. Colmenero stated there will not be a garage.

Mr. Van De Wiele asked Mr. Colmenero if the entrance to the property was going to be off Louisville. Mr. Colmenero answered affirmatively.

Mr. Van De Wiele asked Mr. Colmenero if the proposed duplex will be roughly the same size as the house that he removed. Mr. Colmenero stated that he thinks the house was a little bit smaller; it was a three bedroom with two baths and an attached garage.

Mr. Van De Wiele asked staff what the required setback for the property is. Ms. Moya stated that the required setback from East Pine Street is 35 feet and the applicant is requesting the setback from East Pine be five feet. The applicant is also requesting a Variance on the required rear yard setback from 20 feet to nine feet.

Mr. Henke asked staff if the Board could use the new Zoning Code as a guide in this case. Ms. Miller stated that she did not think there were any changes in residential setbacks.

Mr. White asked Mr. Colmenero how old the house was that he demolished. Mr. Colmenero stated that has been built in the 1940s. Mr. White stated that it is obvious that the 1940s house was in violation of the Zoning Code that took effect in 1970.

Mr. Van De Wiele asked Mr. Colmenero if he wanted to have the duplex entrance off Louisville. Mr. Colmenero answered affirmatively. Mr. White stated that he did not think that the entrance should be entered off Pine and Louisville is a major entry point into Louisville Heights because there is a lot of traffic that comes off that street from the subdivision. Mr. White stated that he likes the concept but needs a viable hardship.

Ms. Miller stated the property has Pine Street and industrial across the street which are factors that would make it hard to residentially develop the site. Mr. Swiney stated that the frontage on the major arterial street would make it difficult to place a residence that would face Pine because of the difficulty entering and leaving the property. Mr. Henke stated there is industrial across the street, it is a corner lot, the orientation of the house on the lot are unusual factors to this lot.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the request for a **Special Exception** to permit a duplex in the RS-3 District (Section 401, Table 1); **Variance** of the minimum lot area for duplexes in the RS-3 District to 7,800 square feet (Section 404.C); **Variance** of the required setback from East Pine Street in the RS-3 District (Section 403, Table 3); **Variance** of the required rear yard setback in the RS-3 District (Section 403, Table 3), subject to conceptual plan 17.13. The Board has found that this is a corner lot and the entry street to the Louisville Heights subdivision with a major industrial facility immediately across the street to the south on Pine, and the lot is actually tapering from west to east. The setback from Pine is proposed to be five feet and the setback from the east property line is proposed to be nine feet per the plan on page 17.13. Those dimensions are necessary to get the designed duplex on the property and have four parking spaces to the west toward the building line. The required setback from Pine for the RS-3 lot would be 35 feet which would cover more than half of the north/south dimension of the lot itself so this would necessitate the five foot side yard on the south. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**LOT-8-BLK-8, LOUISVILLE HGTS ADDN B1-8, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

## **22016—Jessica McLane**

### **Action Requested:**

Variance to permit two wall signs and one canopy sign with a total display surface area of 47 square feet to be installed on the west building wall elevation (Section 302.B.2). **LOCATION:** 10300 East 81<sup>st</sup> Street South (CD 7)

### **Presentation:**

**Jessica McLane**, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, OK; stated the proposed signs are to help the students identify the uses of the building. The hardship is that the property is zoned AG and does not allow signage on the building and TCC requests the signs to direct the students. The three signs will be for the campus store, the library and the TCC logo.

Mr. White asked Ms. McLane if any of the signs would be visible to the residential area that is to the west. Ms. McLane answered affirmatively because the signs will be back lit.

**Bob Dail**, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, OK; stated the signs are reverse channel letters that are lit but they are very low key.

### **Interested Parties:**

**Joshua Ray**, 1425 East 29<sup>th</sup> Street, Tulsa, OK; stated the signs will be over 300 feet from the building face to the property line.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Variance to permit two wall signs and one canopy sign with a total display surface area of 47 square feet to be installed on the west building wall elevation (Section 302.B.2), subject to conceptual site plans 18.15 showing the location of the three signs and 18.14 and 18.16 showing the campus store, the library and TCC logo signs. It is understood that these are to be channel letters that are backlit as shown on the reference conceptual plans. Finding that these signs are necessary to direct students and visitors on campus to the various uses of this very large campus, and the signage is well over 300 feet from the adjacent RS-3 property to the west. 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:

**N50 E/2 NW & LT 1 BLK 1 TULSA JUNIOR COLLEGE SOUTHEAST CAMPUS LESS  
BEG NEC NW TH S541.87 NW305 N110.02 NW67.14 W700 NW101.98 W300 N10  
W119.65 N50 E1320 POB, COLLEGE CENTER AT MEADOWBROOK, SOUTH  
TOWNE SQUARE EXT, DAVIS VILLAGE, SOUTH TOWNE SQUARE, TULSA  
JUNIOR COLLEGE SOUTHEAST CAMPUS, CITY OF TULSA, TULSA COUNTY,  
STATE OF OKLAHOMA**

**22017—CBC Builds, LLC**

**Action Requested:**

Variance of the lot width from 60 feet to 52.5 feet to allow a lot-split (Section 403.A). **LOCATION:** 1423 East 38<sup>th</sup> Street South (CD 9)

**Mr. Henke recused and left the meeting at 5:04 P.M.**

**Presentation:**

**Alan Betchan**, 17 East 2<sup>nd</sup> Street, Sand Springs, OK; stated this request is to keep in pace with what has redeveloped in the neighborhood. The neighborhood has gone through a revitalization for the past few years. This is an older plat that has been divided several times. Looking at the larger overall area this is in keeping with type of lot size, the 52'6" lot size. This same Variance has been granted on the lot directly to the north.

**Interested Parties:**

**Jeff Bigby**, 1415 East 38<sup>th</sup> Street, Tulsa, OK; stated he lives next door to the subject property. His lot is a 105'-0" wide single residential lot. The lots on the north side on the next street over have had this type Variance granted and some lot splits, which resulted in four houses being squeezed into two spots. Mr. Bigby stated he is opposed to the Variance for the issue of placing infill and density at the expense of the surrounding and existing neighbors. Mr. Bigby asked what would designate a hardship for this because there is a house on the lot that functions and has been lived in until the last couple of months.

**Peggy Caudle**, 1416 East 38<sup>th</sup> Street, Tulsa, OK; stated she lives across the street from the subject lot. She lives in the condominiums and it is heavy traffic. The lot is a deep lot so she can see two long narrow houses being put on the lot. There is a lot parking traffic from the Brookside restaurants and bars plus the people who live in the condos. The condos do have assigned off-street parking spots but if the resident of two houses has more than two cars they will be parking on the street. All the houses in the block have a single car driveway and most people have two cars so already the street is

packed with cars. Ms. Caudle stated that she too does not see a hardship because there is a nice little house on the lot. She knows developers want to make money on it because it is an optimum neighborhood but she opposes this request. Ms. Caudle asked the Board to explain what small scale infill means.

Ms. Miller stated this request is exactly what it means. The scale is basically single family homes or multi-family but a small scale not a monster apartment complex.

**Rebuttal:**

Mr. Alan Betchan came forward and stated this is in keeping with what has developed in the neighborhood. This neighborhood is going to go through redevelopment and that is what was contemplated with the purchase of the subject property. The development to the east and to the west are developments that are on smaller split lots too. Yes the houses have become larger nicer houses but it is in keeping with what is happening in the neighborhood today. And it is consistent with the development patterns happening in the neighborhood today. The hardship is that it cannot be done within the guise of the current Zoning Code.

**Comments and Questions:**

Mr. White stated that most of the lots to the east have been split and the two big lots have been split in two. Lots to the north of the subject property have been split. There are a few lots that have not been split, and he understands the concern about keeping the lots to the larger size but the growth in Brookside has been significant enough to where the best use are the splits.

Mr. Van De Wiele stated that this is an area where infill has happened and continues to happen. This seems to be one of the areas that certainly has improved with the lot splits. The standard is a 60 foot lot and this is a 7'-6" Variance.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-1 (Flanagan, Van De Wiele, White "aye"; no "nays"; Henke "abstaining"; Snyder absent) to **APPROVE** the request for a **Variance** of the lot width from 60 feet to 52.5 feet to allow a lot-split (Section 403.A), subject to conceptual plan 19.13 showing the lot split. The Board has found that the neighborhood is by in large consists of similar sized 50 to 60 foot lots, and this is in keeping with the development pattern in the neighborhood as well as the Comprehensive Plan identification for small scale infill projects as an existing neighborhood designation. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

LT 8 BLK 4, LEOKI PLACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Henke re-entered the meeting at 5:13 P.M.

**22018—James Boswell**

**Action Requested:**

Variance to reduce the required parking to 150 parking spaces to permit a training facility (Sections 1211.D, 1215.D, and 1225.D). **LOCATION:** 2908 North Harvard Avenue East (CD 1)

Mr. Flanagan left the meeting at 5:14 P.M.

**Presentation:**

**James Boswell**, 1400 South Trenton Avenue, Tulsa, OK; stated he is an architect and represents the client on the project. Currently there are two buildings on 46<sup>th</sup> Street between Memorial and Mingo, so this is basically consolidating the two buildings. The Union Hall closes at 4:30 so all the spaces will not be needed because there are 220 existing spaces and the facility is not used at the same time.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Henke, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Flanagan, Snyder absent) to **APPROVE** the request for a Variance to reduce the required parking to 150 parking spaces to permit a training facility (Sections 1211.D, 1215.D, and 1225.D), subject to conceptual plan 20.10. The Board has found that the facility which is shown on conceptual site plan 20.10 of the Board’s agenda packet will have varying uses on different days and different hours that tend to mitigate the practical parking requirements for the facility. The Board has also found that the new Zoning Code that is going into place also reduces the overall parking, certainly not below the 150 requested but would impact it by making a smaller request. The 150 parking spaces to be provided on conceptual site plan 20.10 are more than ample to address the practical needs of the facility. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or

circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**LT 1 BLK 2; LT 2 BLK 2; LT 3 BLK 2; LOT 4 BLK 2, SANTA FE INDUSTRIAL DISTRICT, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**22019—Wallace Engineering – Jim Beach**

**Action Requested:**

Variance of required parking from 64 spaces to 63 spaces (Sections 1211.D & 1212.D); Special Exception to permit off-street parking on a lot other than the lot containing the principal use (Section 1301.D); Variance of the required 5 feet landscape separation between parking and South Gillette Avenue (Section 1002.A.2); Variance of the required 15% of street yard for landscaping along South Gillette Avenue (Section 1002.A.1) to permit office and restaurant use.  
**LOCATION:** North of East 1<sup>st</sup> Street South between South Lewis Avenue and South Gillette Avenue (CD 4)

**Presentation:**

**Jim Beach**, Wallace Engineering, 200 East Brady Street, Tulsa, OK; stated this is a remodel project for the old Swinney Hardware Store building. The building and parking have existed on this lot for many years. In the remodel, what will go in the building is a mixed use which will include office, display area and storage for Tallmadge Pal Creative. There will be a separate area that will be used as a lease space for a restaurant. The existing parking will be reworked and the net yield will be 63 parking spaces. The area to the north and west of the alleyway will be filled in and will include parking as well.

Mr. Van De Wiele asked what was on the area just described north and west of the subject property. Mr. Beach stated that is crumbled paving or grass. A member of the audience stated that it is a fenced in yard where Swinney stored lumber and outdoor items.

Mr. Beach stated the parking lot is separated from the building by the alley and has existed that way for many years. The paving that goes to the property line on all sides has existed that way for many years. The reduction of the landscape area is more than offset by the center portion of the new parking lot as landscape area which allows for buffering the parking as well as the dumpster that is placed back there.

**Interested Parties:**

**Ed Sharrar**, Kendall Whittier Main Street, 2216 East Admiral Boulevard, Tulsa, OK; stated he is in support of this request. This is an urban district. There is not abundant landscaping on the lot now and that is fine. The neighbors are more interested in a

pedestrian area and an area where they can park their cars. The merchants in the area are in support of this request.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Henke, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Flanagan, Snyder absent) to **APPROVE** the request for a Variance of required parking from 64 spaces to 63 spaces (Sections 1211.D & 1212.D); Special Exception to permit off-street parking on a lot other than the lot containing the principal use (Section 1301.D); Variance of the required 5 feet landscape separation between parking and South Gillette Avenue (Section 1002.A.2); Variance of the required 15% of street yard for landscaping along South Gillette Avenue (Section 1002.A.1) to permit office and restaurant use. The five foot landscaping separation is eliminated because of the fact there are three street corners and an alley in between. 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. 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:

**LTS 6 7 & 8 LESS BEG SWC LT 8 TH E150 N150 W16 S100 CRV RT TO PT 11.5N SL LT 8 W TO WL LT 8 S11.5 POB BLK 22; LT 11 BLK 22; LT 10 BLK 22; LT 9 BLK 22, GILLETTE-HALL ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**OTHER BUSINESS**

None.

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**NEW BUSINESS**

None.

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**BOARD MEMBER COMMENTS**

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There being no further business, the meeting adjourned at 5:29 p.m.

Date approved: 2/9/16

Francis X. Haney

Chair