

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1163
Tuesday, June 14, 2016, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Van De Wiele White, Vice Chair Flanagan, Secretary	Henke, Chair Snyder	Miller Moye Sparger Foster	Swiney, Legal Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, June 10, 2016, at 2:02 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

Mr. White explained to the applicants and interested parties that there were only three 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 all three board members to constitute a majority and if two board members voted no today the application would be denied. Mr. White 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 no one requested a continuance.

MINUTES

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke, Snyder absent) to **APPROVE** the **Minutes** of the May 24, 2016 Board of Adjustment meeting (No. 1162).

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UNFINISHED BUSINESS

None.

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NEW APPLICATIONS

22079—Larry Reidel

Action Requested:

Variance of the side street setback; Variance to permit structures to extend into the right-of-way/planned right-of-way (Section 90.090-A and C). **LOCATION:** 1624 South Owasso Avenue East **(CD 4)**

Presentation:

The applicant contacted Ms. Moye prior to the meeting today and requested a continuance to July 12, 2016 to allow for a full Board.

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 (Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke, Snyder absent) to **CONTINUE** the request for a Variance of the side street setback; Variance to permit structures to extend into the right-of-way/planned right-of-way (Section 90.090-A and C) to the July 12, 2016 Board of Adjustment meeting; for the following property:

LTS 9 10 11 & 12 & E10 VAC ALLEY ADJ ON W BLK 8, MORNINGSIDE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22080—Kalen Sitler

Action Requested:

Variance of the allowable square footage for detached accessory buildings in the RS-2 District from 722 square feet to 2,418 square feet (Section 45.030-B); Variance of the allowable height for a detached accessory building to allow the building to exceed 10 feet at the top of the top plate and 18 feet overall (Section 90.090-C); Special Exception to allow a gravel driveway (Section 55.090-F). **LOCATION:** 1329 South 135th East Avenue (CD 6)

Presentation:

The staff requests a continuance to the June 28, 2016 meeting. The relief requested has changed so additional time is needed to review and re-notice the case.

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 (Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke, Snyder absent) to **CONTINUE** the request for a Variance of the allowable square footage for detached accessory buildings in the RS-2 District from 722 square feet to 2,418 square feet (Section 45.030-B); Variance of the allowable height for a detached accessory building to allow the building to exceed 10 feet at the top of the top plate and 18 feet overall (Section 90.090-C); Special Exception to allow a gravel driveway (Section 55.090-F) to the June 28, 2016 Board of Adjustment meeting; for the following property:

LT 6 BLK 8, ROMOLAND, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22081—Kim Smith

Action Requested:

Variance to allow the establishment of a family child care home within 300 feet of another family child care home abutting the same street; Verification of the spacing requirement for a family child care home of 300 feet from any another family child care home on the same street (Section 45.070). **LOCATION:** 4667 North Troost Avenue East (CD 1)

Presentation:

Kim Smith, 4667 North Troost Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Van De Wiele asked Ms. Smith if she was aware that there are three other child care facilities existing in the neighborhood. Ms. Smith stated that there are three but one of those facilities is on another block that runs east and west and not in the same block as hers.

Mr. White asked Ms. Smith if most the children she watches come from her neighborhood. Ms. Smith stated that they do not.

Mr. White asked Ms. Smith how many children she would be watching at any one time. Ms. Smith stated that she will be watching seven children because she is only licensed for seven.

Ms. Miller stated that in regards to the spacing verification it is based on the child care facilities that are on the same street as the applicant. Mr. White stated that would make only one other child care facility on the same street.

Mr. White asked Ms. Smith to state her hardship for her case. Ms. Smith stated that she is operating the day care out of her residence and she has been open for approximately three and a half years with no problems. Ms. Smith stated that she did not know there were two other day cares in the area.

Mr. White asked Ms. Smith what brought her before the Board today. Ms. Smith stated that there had been a complaint filed with the City regarding the fact that she did not have a day care zoning.

Ms. Moye stated that the day care operated by Rita Tharps, as shown on exhibit 4.5, does not have a permit to operate a family day care home per the City.

Mr. White asked Ms. Moye how that day care home appears on the DHS child care locator if they are not legally permitted. Ms. Moye stated it appears Ms. Tharps went through the DHS process but they did not go through the City permitting process.

Mr. Van De Wiele asked if the fact that Ms. Smith has operated her day care for over three years and the other day care is not legally permitted through the City is a hardship. Mr. Swiney stated that it appears that Ms. Smith has expertise in the field and she has been operating her business successfully for over three years so that would present practical difficulties for her to continue her business.

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 (Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Henke, Snyder absent) to **APPROVE** the request for a Variance to allow the establishment of a family child care home within 300 feet of another family child care home abutting the same street; Verification of the spacing requirement for a family child care home of 300 feet from any another family child care home on the same street (Section 45.070). The Board has found that the applicant has operated the child care facility at her home for over three years and she is licensed by the State, and the other potentially conflicting use has not been verified for spacing with the Board of Adjustment. For reasons of the afore mentioned that would be a practical difficulty justifying the approval of this Variance. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision’s intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan.

In regards to the Spacing Verification the Board as found that based upon the facts in this matter as they presently exist, we accept the applicant's verification of spacing shown on exhibit 4.5; for the following property:

LT 3 BLK 20, NORTHRIDGE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22082—Michael Birkes

Action Requested:

Variance of the allowable coverage of a rear setback by accessory buildings; Variance of the required setback from interior lot lines for accessory buildings (Section 90.090-C.2). **LOCATION:** 1615 South Detroit Avenue East **(CD 4)**

Presentation:

Michael Birkes, 4908 South Columbia Place, Tulsa, OK; stated the property owners have contracted him to design a new garage to be placed in the location where a former garage had been. Currently there is a temporary carport at that location. The former garage and quarters was approximately 28'-0" x 28'-0". Due to the larger size of today's automobiles the new garage has been extended five feet into the interior back yard closer to the house. The owner has had a conversation with his neighbor to the north and that neighbor has requested that the three foot setback be complied with, so Mr. Birkes requested that to be removed from the request. But he does want to maintain the alleyway setback and property line. The new garage will align with the other accessory structures along the alley. The owner does want to maintain as much of the backyard as possible but still needs a garage.

Mr. Van De Wiele asked if the old garage was torn down because it was dilapidated. Mr. Birkes stated the old garage was destroyed by a fire.

Mr. White asked Mr. Birkes if the new garage would encroach on any utilities. Mr. Birkes stated that the new garage will not encroach on any utilities that he is aware of. Mr. Birkes stated there was an abandoned sewer line from the south end where the quarters were located originally. Mr. Birkes stated that he will have OKIE come to the subject property to make sure there are no utilities.

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 (Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke, Snyder absent) to **APPROVE** the request for a Variance of the allowable coverage of a rear setback by accessory buildings; Variance of the required setback from interior lot lines for accessory buildings (Section 90.090-C.2), subject to conceptual plans 5.9 and 5.10. The proposed structure shown on 5.9 will be three feet from the north property line and the proposed garage will be two feet from the existing alleyway. The Board has found that the proposed garage to be constructed is a replacement of an earlier garage that was destroyed by fire and that the size of today's automobiles necessitates a larger footprint than was originally constructed. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;

- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

LT 9 BLK 5, MAPLE PARK ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22083—Victory Christian Church

Action Requested:

Variance to exceed the permitted display area of a sign to allow a 72 square foot dynamic display sign in the O District. **LOCATION:** 7700 South Lewis Avenue East (CD 2)

Presentation:

Sarah Dillard, 7700 South Lewis Avenue, Tulsa, OK; stated the new board will be five square feet smaller than the existing board. It usually takes about ten years before a board needs to be replaced and the existing board is significantly over ten years, and lately there have been issues with trouble shooting. Across the street is Oral Roberts University and they recently were approved for a dynamic display board and the proposed board for Victory will be similar but smaller. The proposed 72 square feet will allow Victory to get out more information and it will be easier for drivers to read. The proposed sign will only take up 23% of the allotted amount of the 307 square feet of signage that was granted. In updating the dynamic display the mainstream structure of the sign will not be changed.

Mr. Van De Wiele asked Ms. Dillard if she said the new proposed sign would be smaller than the existing sign. Ms. Dillard answered affirmatively. Mr. Van De Wiele asked Ms. Dillard why she was before the Board if the new sign is smaller. Ms. Dillard stated it is because the old sign is an electronic message center and the new sign will be a dynamic display.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 3-0-0 (Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Henke, Snyder absent) to **APPROVE** the request for a **Variance** to exceed the permitted display area of a sign to allow a 72 square foot dynamic display sign in the O District, subject to per plans on 6.12 and 6.13. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision’s intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

LT 1 BLK 1, KENSINGTON, VICTORY CHRISTIAN CENTER, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22084—Ana Moreno

Action Requested:

Special Exception to allow the proposed Event Center within 150 feet of a R zoned district (Section 15.020). **LOCATION:** 11115 East 21st Street South – **Tenant Space:** 1938 South Garnett Road East (**CD 6**)

Presentation:

Ana Moreno, 1328 North 80th East Avenue, Tulsa, OK; stated she represents the applicant and will be her interpreter. The applicant is fully aware of everyone’s concerns and if she lived in the area she would also be concerned herself. She tried to talk to the neighbors and could see the fear in their faces when she approached the door to speak to them. She understands this fear because she knows the area is

becoming very violent. This violence is not the fault of a business but the lack of security in the area. The applicant's business is a family business.

Mr. Van De Wiele asked the applicant what type of events she was planning to hold and approximately how many people would be in attendance at these events. The applicant stated the building has a capacity for 200 people and Sundays would be events for children. Saturdays would be for First Communion, Baptisms, and birthday parties. The facility will not be open to the public but only private family events. She plans to employ approximately 25 people for the days the facility is open. The applicant has already held two events in the building and is not aware of any noise complaints.

Mr. Van De Wiele asked the applicant what the hours of operation would be. The applicant stated she would be open until 1:00 A.M. on the days she has events except for Sundays which would be 9:00 P.M. The events would be held on Saturdays and Sundays with an occasional Friday event.

Mr. White asked the applicant if all events were scheduled in advance. Ms. Moreno answered affirmatively for the applicant.

The applicant stated that she has experience in this business and has security guards at every event. If the City will allow it she will try to have the Police Department in attendance at the events.

Mr. Van De Wiele asked the applicant if she was hiring private security for the events. Ms. Moreno answered affirmatively for the applicant.

Mr. Flanagan asked the applicant if there would be food and alcohol served at the events, or if the people reserving the event center would be bringing in the food and drink. Ms. Moreno stated that the people reserving the event center would be the ones to bring in the food and liquor or beer. The applicant stated that she places a limit on the amount of liquor that can be brought into the facility.

Mr. Van De Wiele asked if the applicant has currently been operating the event facility. Ms. Moreno stated that she has had the center for five months and two events have been held there through a special event permit.

Mr. Van De Wiele asked when those two events were held and what type of events were they. The applicant stated that the events were held last month. One was an event for Alcoholics Anonymous and the other event was a quinceañera, which is a 15th birthday celebration for a girl.

Interested Parties:

David Riggs, 1935 South 111th East Avenue, Tulsa, OK; stated he lives directly behind the center. The neighborhood is where families live, raise family, and entertain in the backyard. The subject property abuts houses on South 111th East Avenue between 19th and 21st Streets, and there is not even five feet between the two zones. It is clear that when

these regulations were written the Board knew that 150 feet was and is needed to maintain a reasonable amount of space between a residential zone and a zone where intoxicating beverages will be served or sold. Mr. Riggs stated that he understands the applicant has stated that she will not be selling the low point beer or alcohol but it will be served on the property. The plan shows there are two sections of the subject building are proposed to be an event center. However, if the facility is granted the Special Exception the neighbors do not know what else will be allowed to come in and empty spaces or future empty spaces will be allowed to sell or serve intoxicating beverages. The neighbors do not want to go back to the noise, the fights, or the indecent exposure episodes they dealt with when there was a bar in the area. When the bar was open the patrons would come out back and fight in the alley or urinate in the alley. One neighbor that has a two-story house witnessed this type of behavior several times. Everyone realizes that in today's world a fight or disagreement will probably end with the involvement of a gun instead of a fist fight. The neighbors do not want this environment around their homes or where the children, adults and pets play and sleep. They do not want to see the probability of drunken driving increase in the neighborhood which already has a problem with auto accidents. A business where intoxicating beverages are consumed does not need to be added this close to the neighborhood. Mr. Riggs request the Board deny the request for the Special Exception.

David Kelley, 10912 East 19th Street, Tulsa, OK; stated he is the President of the neighborhood association. There was a petition carried through the neighborhood recently and out of 375 houses 302 households signed the circulated petition. Mr. Kelley read the wording of the petition to the Board. The signatures on the petition were to represent the residents no vote for the proposed facility. Mr. Kelley stated this proposal will affect the whole neighborhood not just the houses that abut the property line of the center.

Connie Dodson, District 6 City Councilor, 175 East 2nd Street, Tulsa, OK; stated that she and Ms. Karen Gilbert share Magic Circle. Ms. Dodson stated that she called a meeting with the neighborhood. There is another large event center located in the district that abuts another neighborhood. The Special Exception for that center was approved and permits were issued prior to her becoming a Councilor, and unfortunately those approvals rendered her and the residents with very little recourse in dealing with the noise and excessive activity. There are other event centers in and around the 21st and Garnett area that are located farther away from residential areas. The only recourse the residents will have and do have is to call the Police. Ms. Dodson stated that she would not like to see another event center causing issues for the area.

Mr. Van De Wiele asked Ms. Dodson what type of problems she and the residents are seeing at the other event centers. Ms. Dodson stated the primary concerns are the quinceaneras. In the Hispanic culture the quinceanera is often larger than a wedding. The people bring in their bands, their own sound system, and their own setup so it is very hard to control the noise level. If the quinceanera is a large one the parking will more than likely filter into the neighborhood.

Mr. Van De Wiele stated that he did not think that parking would become an issue at the shopping center. Ms. Dodson stated that the other event center can fill their parking and it is located in the old Target building on 21st Street.

Mr. Van De Wiele asked staff how permits could be obtained to have the two events the applicant has stated that she has already held. Ms. Miller stated that Mr. Swiney may be able to address it but she does not know if at the point of permit issuance if it was determined to be an event center or if the permits were individual event permits. Mr. Swiney stated that he is not sure of the answer, but there is a staff that issues special permits and they are all reviewed on a case-by-case basis.

Mr. Van De Wiele asked staff if anything had changed in the Zoning Code in January 2016 in regards to this type Special Exception request. Ms. Miller stated nothing changed in this particular case.

Jeanette Erholm, 1906 South 111th East Avenue, Tulsa, OK; stated there are issues already happening behind the shopping center. There have been gun shots, there have been vehicles shot up and there has been a murder across the street. She has replaced her motion detector light four times. On Monday mornings, especially, there are beer bottles and cans and trash in her yard because she lives on the very corner of 19th Street and 111th East Avenue. Some of the items that have been picked up are broken glass, hard liquor containers, beer bottles, beer cans, drug paraphernalia, needles, personal items that have been disregarded and on two occasions crack cocaine. This is not a good environment for the neighbors and she definitely does not want it around her grandchildren. Ms. Erholm stated that she is concerned that if the applicant receives the Special Exception the event center will increase in size. The neighbors already have to hear loud music coming from the parking lot. If there is alcohol served she is afraid there will be more of the same problem only magnified. If the event center is allowed to go in she believes property values will decrease.

Neil Hunsberger, 11112 East 17th Street, Tulsa, OK; stated he purchase his house in Magic Circle in 1968 and at that time it was a new and quiet neighborhood. He visited 43 houses in the neighborhood with a petition and he has over 40 signatures on that petition showing opposition to the proposed event center in the shopping center.

Skip Steele, 13380 East 33rd Street, Tulsa, OK; stated he is the former Councilor of District 6 and he is in opposition of another event center in the community. During his three year term on the Council the event centers were the biggest problem. There has been a lot of talk of only having a wedding or reception, but in reality once the approval is given to an event center Pandora's Box has been opened. The description of an event center is very, very vague so historically the people that live around an event center must listen to some kind of music for four or five hours on a Saturday night. The pounding music is extremely disturbing. These businesses just pay their \$75 tickets after being visited by law enforcement and continue on. Mr. Steele stated that he would strongly urge the Board to deny this applicant.

Nell Villines, 1915 South 111th East Avenue, Tulsa, OK; stated she purchased her house 40 years ago when the neighborhood was quiet but it has now changed, and the neighbors do not want the neighborhood to change any more. The property has already depreciated and if this application is approved property values will depreciate more. The noise will not be conducive to a quiet neighborhood atmosphere.

Karen Gilbert, District 5 City Councilor, 175 East 2nd Street, Tulsa, OK; stated this proposal is not in her district but she represents the neighborhood of the citizens that are in attendance today. Ms. Gilbert stated she was going to request a continuance but will not do so. The reason she was going to request a continuance is because Councilor Dodson had a meeting with the residents but the applicant was not at the meeting. Anything that comes before the Council one of the first questions asked is "has the applicant met with the residents of the proposal" and that has not happened. She understands that after speaking with a few people that the applicant went door to door and spoke to a few of the residents. In her opinion it is imperative that everyone be in the same room so that all the concerns can be heard at once and addressed. In listening to the concerns today she is going to request the Board deny this application. As Councilor Dodson and Skip Steele have mentioned today, the event center on 21st has had issues and some those issues have led to the Council several times. The subject event center butts right up to the residences while the other event center has a little more room. Ms. Gilbert stated that she totally understands the concerns. The applicant can hire all the security guards she can afford but as long as the security guards are placed behind the scenes nothing is going to happen. The Police Department cannot secure the area and there is already a shortage of officers that are taking care of other issues throughout Tulsa.

Robert King, 1923 South 108th East Avenue, Tulsa, OK; stated he has lived in his house for 52 years. When he first moved into the neighborhood there was a nice shopping center. Now if he does not hear a gunshot for two weeks he thinks he is in the wrong neighborhood. He thinks if the Board approves this application he believes 21st and Garnett will be the hub of crime.

Paula Riggs, 1935 South 111th East Avenue, Tulsa, OK; stated she has lived in her house for 39 years and her house is directly behind the subject property. She had a German Shepherd that was poisoned because he barked at the noise in the alley. Ms. Riggs stated that the center at 21st and 145th East Avenue has mentioned in today's meeting, but that facility is much farther than 150 feet from the residences while this facility (subject property) is not even 100 feet from the wall to the rear of the houses, and that is not the property line but it is the houses themselves. She strongly urges the Board to deny this application.

John Martin, 10613 East 18th Place, Tulsa, OK; stated he has lived in the neighborhood since 1971 and he raised his four children there. About one and a half blocks away is a park and a school. There have been some incidents about people going onto school property so there is a concern for these school children.

Rebuttal:

Ana Moreno came forward and stated that she understands everyone's concerns. She has been granted five special event permits, and once she knew about the neighbors concerns she decided to do this legally and the right way without going forward with the remaining events. The applicant stated that her culture is Hispanic and that seems to be the main concern of the neighbors, but not all of the Hispanic people are drug dealers or alcoholics. The applicant stated that she is a radio personality with a local radio station and through that career everyone knows she is a family person. She does not understand how the City has allowed the corner of 21st and Garnett to become run down. The applicant stated that even she is afraid to purchase groceries in that area because of the crime. The applicant stated that she does not agree with the judgment people are passing on her for something that she has not even started. The applicant will accept the Board's decision.

Comments and Questions:

Mr. White stated that he cannot support the application basically on the history of the event center in the area. There have been many come before the Board and many in the neighborhood spoke in opposition to this application. This center abuts the houses and he believes that would be unfair to impose this on the neighborhood.

Mr. Van De Wiele agreed with Mr. White. He is sympathetic to the applicant because the problems that are there were not caused by her. He does not think this is a Hispanic or Caucasian issue but it is a usage issue. Based on the history that has been heard from the current and former City officials that literally have boots on the ground and daily hear from their constituents he cannot approve this application because the center is so close to the neighborhood.

Mr. Flanagan agreed. There has been 40 years of history presented with feedback also from the Councilor Dodson and Councilor Gilbert, he cannot support the application.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke, Snyder absent) to **DENY** the request for a **Special Exception** to allow the proposed Event Center within 150 feet of the R zoned District (Section 15.020), finding by reason of the potential injury to the neighborhood and detriment to the public welfare; for the following property:

LT 1 BLK 1, CHEROKEE CENTER ADDN, MAGIC CIRCLE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22085—King Architects Solutions, PLLC – Matt King

Action Requested:

Variance of the rear setback from 25 feet to 8 feet to permit an addition (Section 5.030-A). **LOCATION:** 2546 South Birmingham Place East **(CD 4)**

Presentation:

Matt King, King Architectural Solutions, 108 North Greenwood, Tulsa, OK; stated the owners purchased the house and it had a garage built close to 26th Street. It was leaning so it was torn down with the hopes of a new garage being placed farther north on the site. The new garage will be relatively in the same location east to west. The garage happens to be in the rear yard setback. The intent is to connect the house to the garage with a new addition that creates a courtyard. Should the owners have to move the garage outside of the rear setback they would lose any of the opportunity to capture any rear yard. The new garage would be a little larger and deeper to accommodate today's cars.

Mr. Van De Wiele asked if there had been any connectivity between the house and the old garage. Mr. King stated that there had not been any connection; it had been a free standing structure.

Mr. White asked Mr. King if there were going to be any utility problems. Mr. King stated there would not be.

Interested Parties:

Barbara Geary, 2545 South Birmingham Place, Tulsa, OK; stated she lives across the street from the subject property. She opposes the requested Variance because it will change the rear setback in the RS-2 residential neighborhood. The neighbors and she are concerned that allowing the proposed Variance would increase the building density of the neighborhood. That would be contrary to the character of the neighborhood. She understands that a Variance is granted if there is a hardship and she sees none.

Rebuttal:

Matt King came forward and stated that the intent of the addition is a mudroom between the house and the garage. There is not much density being added and the architecture will be compatible with the existing architecture. Mr. King stated that he is an advocate for preservation.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke, Snyder absent) to **APPROVE** the request for a Variance of the rear setback from 25 feet to 8 feet to permit an addition (Section 5.030-A), subject to the conceptual site plan on 8.11. Finding that the applicant is replacing a dilapidated garage that was demolished due to its condition and the new garage will be slightly larger than previously existing garage, the increase is to accommodate the modern larger vehicles. The new garage is generally in the same area from a setback standpoint off the rear setback but is pushed farther to the north to allow for the connection between the garage and the main portion of the house. The

need to replace the dilapidated garage is a hardship that would justify this Variance. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

**LT 8 BK 2, PERAGEN ADDN RESUB L3-4 B1 WOODY CREST & PRT J P
HARTER'S, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

22086—Edward Jones

Action Requested:

Special Exception to permit used car sales in the CS District (Section 15.020); Variance to allow outdoor storage and display of merchandise within 300 feet of an abutting R District (Section 15.040). **LOCATION:** 41 South Sheridan Road East (CD 3)

Presentation:

Edward Jones, 3104 South Mingo Road, Tulsa, OK; stated he represents One Stop Auto. The subject property has previously been a gas station and a lawn mower repair shop. Directly behind the subject property there are lots zoned residential but they are parking lots and there has not been a house on those lots in over three years. When the church purchased those lots it was not necessary for the church to rezone them. He did check with the church that owns the lots to see if they would have any opposition to the proposed car sales business. The church said they were glad there was going to be a tenant in the building and happy that the property was going to be cleaned up. To date he has spent \$11,000 to level the parking lot, clean up the debris and install a fence around the location. He will be repairing cars at the shop and placing them up for sale after the repairs are complete.

Mr. White asked Mr. Jones if the church he visited with is the one located directly south of the subject property. Mr. Jones answered affirmatively.

Mr. White asked Mr. Jones if all three platted lots were owned by the church. Mr. Jones answered affirmatively and stated that all three lots are now parking for the church.

Mr. Van De Wiele stated that the Board has had a lot of applications for used car sales and they seem to grow and grow and over packing a lot making them unsightly to the neighborhoods. Mr. Van De Wiele asked Mr. Jones how many vehicles would be on the lot. Mr. Jones stated that the maximum amount of vehicles that can be placed on the lot is 22 with adequate space. Mr. Van De Wiele asked if that would allow for parking for the customers. Mr. Jones answered affirmatively. Mr. Jones stated that he has also made storage arrangements for the cars that would be brought onto the lot with Route 66.

Mr. Van De Wiele stated there are also issues with outside storage of the vehicles that are to be repaired. Mr. Jones stated that with the renovations to the building he has space for six cars deep to keep them inside if necessary. Mr. Jones stated that the business prides itself in not keeping junkers on the lot.

Mr. White asked Mr. Jones if there would be any tires sold or stored on the subject property. Mr. Jones stated that there will be racks for replacement tires for some of the commercial vehicles that will be serviced. The tires will be stored in the rear of the building inside the fence and not visible from Sheridan. Mr. Jones stated there will be nothing seen from Sheridan Road. Mr. White asked Mr. Jones if the racks would be covered. Mr. Jones stated there are no houses that abut the subject property and if he needs to cover the tires there will be no issue.

Mr. Van De Wiele asked Mr. Jones if the subject property was being purchased or leased. Mr. Jones stated that it is being leased. There was a proposal to purchase the lot but the current owner has an emotional attachment to the property because it had been his father's business. Mr. Van De Wiele asked how long the lease term is. Mr. Jones stated that the lease is for 36 months with an option of an additional five years. The goal at the end of the term is purchase the property.

Mr. Van De Wiele asked Mr. Jones if the only thing that would be outdoor storage and display would be the 22 operable vehicles for sale and tires behind the building. Mr. Jones answered affirmatively.

Mr. White stated that the Board will require that the cars for sale are parked in a manner that is in compliance with the parking lot spacing and drive aisle configuration if this application is approved.

Mr. Jones stated that due to the traffic on Sheridan Road and being located so close to the corner there will be a side entrance to the subject property.

Interested Parties:

Theresa Landers, 6930 East 7th Street, Tulsa, OK; stated she is representing herself and the McClure Park Neighborhood Association. Ms. Landers stated that she has concerns about this application even though they have improved an eyesore. She has a problem with the rezoning of a residential lot even if it is for an existing business because that will open the door for future uses.

Mr. Van De Wiele stated that the subject property is not currently zoned residential.

Ms. Landers stated that the subject property does not have enough parking spaces to support a viable car sales business. It is a temptation to park cars in the parking lot and once the cars are parked on the church parking lot it will become a problem. The residents have been working for years to bring back the neighborhood and it is slowly being turned around. Ms. Landers stated that the applicant has spent money prior to approval in hopes that the Board will automatically approve the request because of the work that has been done. Ms. Landers stated that she requests the application be denied.

Rebuttal:

Edward Jones came forward and stated that he has been very conscientious of what the neighbors thought so he asked both churches near the subject property about their concerns. He asked the City if anyone had lodged any complaints about the business next door which is in disarray. He asked the City if anyone had lodged any complaints about the broken down cars that are on the lot, the beer cans, the broken glass and all other debris because the existing building is in poor condition. The City Inspector has been closely worked with to make sure the electrical wiring had been updated. Mr. Jones stated that he met with the person that opposed the application and he had seven neighbors that called with concerns. He extended an invitation to all them to look at the property and see what is being done, and Ms. Landers is the only one that came for a visit. On her visit she stated that the property looked good and stated that there had been a great improvement.

Ms. Landers came forward and stated that she also has a problem with the outdoor display of merchandise. She drove by the applicant's other place of business and there is a big display of tires at that location, which is okay for that particular location, but that display would not be okay for the proposed location, though Mr. Jones has informed her that the display of tires will not be on the proposed site. The residents want to protect the neighborhood.

Mr. Jones came forward and stated that he has represented a lot of small businesses in Tulsa and it is always good when a business owner makes improvements to property. It is a rarity that a client spends \$11,000 on improvements just to make it feasible. Mr. Jones stated that he is always a little disillusioned when neighbors won't complain to improve an existing structure and when it is being improved then there is opposition. The furniture next door is an example. There are mattresses. There is broken furniture.

There is everything on the side of the building. The subject property had broken down cars on the lot when the lease was signed and the owner had to be asked to remove the broken down cars. The owner had to be asked to remove the broken glass. Mr. Jones stated that if the neighbors truly want to improve their neighborhood the subject property should not have been found in the condition that it was found in.

Comments and Questions:

Mr. Van De Wiele stated that he could support the application if there was a time limit placed on it to match the lease period. He also thinks if the Board includes the parking lot spacing and drive aisle requirements that should help from an appearance stand point. The tires cannot be visible from Sheridan Road and not extend beyond the side walls of the building.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Henke, Snyder absent) to **APPROVE** the request for a Special Exception to permit used car sales in the CS District (Section 15.020); Variance to allow outdoor storage and display of merchandise within 300 feet of an abutting R District (Section 15.040). This approval is subject to the following limitations and restrictions:

- ❖ The approvals are granted for a time period of eight years from today’s date, June 14, 2016
- ❖ A maximum of 22 operable vehicles will be offered for sale outside at the building on the subject property
- ❖ The parking lot where the vehicles are displayed will conform to the parking lot spacing and drive aisle configurations and dimensions in compliance with the current Zoning Code
- ❖ There be no overflow parking on any adjacent properties, specifically including the residential zoned church parking lot to the east
- ❖ The only merchandise to be offered for sale or displayed outdoors be operable vehicles or tires for sale
- ❖ Any tires offered for sale outdoors be stored behind the building on the subject property on covered racks and such racks extend no taller than the building and no wider than the north or south building line of the building on the subject property.

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. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision’s intended purpose;

- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

LTS 15, 16 & 17 BLK A, CREST VIEW ESTATES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22087—Shane Hood

Action Requested:

Special Exception to allow Assembly and Entertainment and other outdoor use in the CH District to permit a food truck court (Section 15.020). **LOCATION:** 2439 East 11th Street South **(CD 4)**

Presentation:

Shane Hood, W Design, 815 East 3rd Street, Tulsa, OK; stated he represents Fuel 66. The subject proposal is a food truck court located on Route 66 and the development will have a space for up to six trucks, outdoor seating, game area and restrooms. The feature that distinguishes this from other typical food trucks is the addition of year round indoor seating and patio space. The indoor seating allows the park to be open during the cold of the winter and the heat of the summer. The property has been used as a variety of things such as used car lots and is located prominently on the 11th Street section of Route 66. The owners are interested in investing money along Route 66 and being a part of the City of Tulsa. The owners have used the site in the past as the tail gate special event for TU football games. The owners have spoken to adjacent neighbors regarding the project and have received nothing but positive response about the plans. There have been no questions, e-mails, letters or phone calls received. The proposed project is in harmony with the Comprehensive Plan of Tulsa and fulfills both the Main Street and the Area of Growth destinations.

Mr. Van De Wiele asked Mr. Hood what the house located on the northeast corner will be used for. Mr. Hood stated that currently it is not going to be used for anything, but in the future it might be used as a commissary kitchen or dining. Mr. Van De Wiele asked if the house was being used as a residence. Mr. Hood stated that it is not.

Mr. Van De Wiele asked staff if the terminology “assembly and entertainment and other outdoor use” means the subject property can be used for anything. Mr. Hood stated there would be outdoor games similar to other food truck places. There might be a movie shown on one of the screens on the property. There might be music on occasion. Ms. Miller stated there is a category in the Zoning Code titled “Other Outdoor and Entertainment” to capture all of that. Mr. Van De Wiele asked if this application is approved is the Board approving another drive-in movie theater. Ms. Miller stated that the Board could specifically limit it to food truck courts. Mr. Flanagan asked about the music. Ms. Miller stated the Board could state the music is an accessory to the food truck court including outdoor movies. Mr. Swiney stated the Board needs to specify what uses are being approved based on what the applicant is asking. Ms. Miller stated that the key is that the food truck court is the principle use.

Mr. White asked Mr. Hood where the indoor seating was going to be. Mr. Hood stated there is an existing building in the middle of the subject property and that is where the indoor seating will be.

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 (Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Henke, Snyder absent) to **APPROVE** the request for a **Special Exception** to allow Assembly and Entertainment and other outdoor use in the CH District to permit a food truck court (Section 15.020), subject to conceptual plan 10.9. This approval limits the use to a food truck court and other activities and events that are accessory customary to the food truck court. 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:

N. 50 LT 7 BLK 4; E. 1/2 LT 8 BLK 4; W. 1/2 LT 8 BLK 4; E. 52 1/2 OF S. 100 LT 7 BLK 4; W. 52 1/2 OF S. 100 LT 7 BLK 4, HIGHLANDS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22088—Roger McKee

Action Requested:

Variance of the front setback from 35 feet to 25 feet in the RS-1 District (Section 5.030-A). **LOCATION:** 3189 East 33rd Street South **(CD 9)**

Mr. Flanagan left the meeting at 3:03 P.M.

Presentation:

Dana Penn, 3189 East 33rd Street, Tulsa, OK; stated she would like to add on to her house. Currently her existing house is already three feet over the line and the point that will extend the farthest out is 5'-5" from the existing house. Ms. Penn contacted the President of her home owner's association, and they like the plan for the house. The garage is at an angle and the extended portion will not be a whole portion of the house but only a corner of the structure.

Mr. Flanagan returned to the meeting at 3:05 P.M.

Interested Parties:

Shane Hood, W Design, 815 East 3rd Street, Tulsa, OK; stated he is the architect on the house. The house is located in Ranch Acres which was platted between 1949 and 1956. The neighborhood was platted with a 25 foot setback for the subject property. When the neighborhood was initially platted the 1970 Zoning Code went into effect there was a 35 foot setback which caused the house to immediately be over the setback line. There are two pieces of property that have received a Variance on the front yard setback for the same reason. He would ask the Board to give this application the same consideration as the two previous cases.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke, Snyder absent) to **APPROVE** the request for a **Variance** of the front setback from 35 feet to 25 feet in the RS-1 District (Section 5.030-A), subject to conceptual plan 11.10. The Board has found that the area of encroachment of the proposed addition to only be approximately five and a half feet beyond the existing building line and a portion of the house is previously built in what is now the current setback. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;

- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

LT 13 BK 5, RANCH ACRES, RANCH ACRES RESUB L5-12 B5 & L4-6 B6, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22089—Steve Olsen

Action Requested:

Special Exception to allow a church use in the RS-3 District (Section 5.020); Variance to reduce the minimum permitted lot area for a religious assembly use to 30,631 square feet (Section 40.320-A); Variance to permit a gravel parking area (Section 55.090); Variance of the required parking for a church use (Section 55.020). **LOCATION:** 2823 East Admiral Place North **(CD 3)**

Presentation:

Steve Olsen, Steve Olsen Architects, 1628 East 55th Street, Tulsa, OK; stated when he was first asked to handle this project he thought it would be a “piece of cake” and it has not been. At this point Mr. Olsen requested Mr. T. J. Bennett to come forward to present the case.

T. J. Bennett, 7011 East 100th Place, Tulsa, OK; stated that he had sent a letter to the Board earlier this week and he would like to highlight a couple of points from that letter that relate to this application. Praise Assembly Deaf Church began as the silent deaf church in 1948 on East Admiral. That location had to be vacated so I-244 could be built so the church moved, first to Central Assembly of God and later into Garnett Assembly of God. The deaf church was co-located with Garnett Assembly of God for approximately 30 years. The growth in both churches necessitated that the deaf church go out on its own. In 2014 the subject property was located and the church did its best to make sure zoning was correct and that permits could be issued. At that time the zoning map the church was shown indicated the entire property, including the rent house, was zoned as a CS District. When the change of use permit was applied for it was determined that the zoning line is actually on the middle of the property where a lot split was made in the 1970s or 1980s so there could be a rent house on the north portion of the lot. When the north portion of the lot was zoned residential rather than making the zoning split at the lot split line the zoning went through the middle of the property making the top 2/3 of the existing house building in a residential district and that necessitates the Special Exception to allow a church in a residential district. The

church did look into purchasing adjacent properties in an effort to meet the lot size and increased parking requirements. The house northwest of the subject property was vacant but it is involved in complicated real estate trusts with other properties so it is not available. Now the church is limited to the current subject property size. In an effort to address the parking needs the church approached the United Keetoowah Band of Cherokee Indians, who has a treatment facility about 800 feet away from the subject property, and the church received permission from the Chief of the United Keetoowah Band of the Cherokees to use their parking lot as an overflow lot as needed for the church services. The 25 parking spaces on the subject property will meet the church's need 98% of the time. There are 33 spaces available in the nearby lot and the church has a van which the church would use to shuttle the parishioners to the church allowing guests and visitors to park in the parking lot on the church site. Archer Park is about 1,200 feet northeast of the subject property and the park has about 56 parking spaces available that can also be utilized. If the church's application is approved they will be content in not expanding into other properties. The church has been a church of excellence that provides a service that is unlike any other in Tulsa; the church is the only independent deaf church in Tulsa. There are approximately 2,500 deaf in the City of Tulsa and the church serves that community with services that presented in American sign language from people who fluent in that language. Presenting something to the deaf is not as simple as translating English into hands, the whole mindset of the language order is different in American sign language. The church has deaf people who do not understand sign language so the church provides a service of typing in real time close captioning so those people can understand. The church has deaf-blind people that attend that use TV monitors so they can understand. The church services are presented in sign language, presented in voice, presented typed so they can be seen and captioned or presented by a person standing right in front of a person so they can see and experience everything that is being said. Mr. Bennett stated that the neighbors may have a concern about the noise level from the deaf church. He runs the sound system for the church and he keeps a noise meter and he does not turn the music up greater than 85 decibals inside the room of the service. So the noise that is transmitted outside is minimal. Shadley Acoustics has been contacted to help in the conversion of the steel building into a sanctuary to prevent transmitting noise outside of the building. The church does intend to have a floating wood floor which will allow the subwoofers to drive vibrations into the floor so the parishioners can feel and experience the music in a physical sense. The church requests the approval of a three year temporary Variance for the parking lot. The church has not made any moves toward paving the parking lot because they wanted to be able to convert the metal building into a sanctuary and raise funds to complete the other requirements, i.e., landscaping.

Mr. Van De Wiele asked Mr. Bennett what had been on the subject property. Mr. Bennett stated that when the church moved into it the property had been vacant for several years, but the seller stated that the most recent tenant had been a real estate landlord and before that there was an electrical contractor. Mr. Van De Wiele asked Mr. Bennett if the lot had always been a gravel parking lot. Mr. Bennett stated that it has always been a gravel parking lot as far as he was aware.

Interested Parties:

M. Patricia O'Connor, 2849 East Admiral Court, Tulsa, OK; stated she protests the encroachment of the church into the neighborhood on Admiral Court. She thinks the church is a wonderful thing and is necessary, but in that same neighborhood there are many vacant places with substantial parking the church could use. Ms. O'Connor stated that Admiral Place is a one-way street in front of the subject property and the exit ramp from I-244 is directly across from the subject property. That exit ramps feeds to Delaware which goes to TU and there is heavy traffic. Her parents were one of the original home owners 80 years ago so she is aware of the background. The subject property was four lots with a house sitting in the middle of the four lots and zoned residential. The property was sold to the electrical contractor and at that time the electrical contractor requested a zoning Variance to bring the business to Admiral Court and the Board ruled against it. The electrical contractor was told he had to erect a fence on the dividing line of the lots so the company vehicles could not use Admiral Court as an ingress/egress. This property is part of the Kendall Whittier historical area and that organization has made people clean up their properties with violations being issued. It is nice to see this is again a residential area. There are small children in the area and Admiral Court is a two-lane street with no sidewalks. The neighborhood does not need any more traffic. Ms. O'Connor stated that she understands the existing house will be torn down and she does not want to see that happen because it is a residential neighborhood.

Mr. Van De Wiele stated that the information he has is that the church plans to keep the house as a rental house as it is today. The dotted line on the map represents the boundary of the subject property.

Mr. Van De Wiele stated that everything south is zoned commercial. Ms. O'Connor stated that she understands that. When I-244 was built that was the start of zoning that area commercial and she does not want to see Admiral Court become commercial. By continuing to allow businesses expand over toward Admiral Court that is what is going to happen. Mr. Van De Wiele asked Ms. O'Connor if the church agreed to keep the rental house residential and keep the larger portion of the property facing Admiral Place as church use would that address her concerns. Ms. O'Connor stated that it would not because the people going to the church are going to drive Delaware northward and circle around and come down Admiral Court. Admiral Court is only four blocks long between Delaware and College. That places a lot of traffic on Admiral Court. Her main concern is that if the church has to expand to other areas to accommodate all the parking the residents are going to have the traffic on Admiral Court. Mr. Van De Wiele stated that the church has said that their parking lot would be large enough to hold the vehicles of a typical service with only a few times a year for special events would the other areas be utilized.

Rebuttal:

Mr. T. J. Bennett came forward and stated the property is currently under a mortgage therefore the rental house cannot be torn down, and the church has no intention of

doing that. The rental income from the rental house is part of the church's financial model to maintain viability.

Mr. Van De Wiele asked Mr. Bennett if rezoning the CS lot line to the north to where the actual commercial stops and the residential begins. Mr. Bennett stated there were many options and the church went with the recommendation of the Zoning Clearance Letter to apply for a Special Exception and Variance.

Ms. Miller stated that as staff, they would not advise the applicant to request CS zoning that went to Admiral Court. Mr. Van De Wiele stated that he was not looking to take it to Admiral Court but only to the lot split line to match it up with the actual usage.

Mr. Bennett stated that he can confirm that what Ms. O'Connor says about Admiral Court is true, and being the 15-seat van driver for the church he would not drive that van down Admiral Court. He will be driving to Archer because it is much wider and then on to Harvard. Mr. Bennett stated that the parishioners and visitors are given the directions to the church, to exit at Harvard on to Admiral Place because there is no safe way to get from the Delaware exit ramp to the church.

Mr. Bennett stated that the church's intention was to screen the north side of the property between the 2824 property and the subject property so there would be no access to Admiral Court but the 2824 property is not for sale so it is a moot point.

Mr. Bennett stated the entire church property is bordered by a six foot privacy fence. The only intention regarding the fence is to upgrade it from the current sheet steel to a more decorative wooden or vinyl privacy fence. The church does intend to keep the privacy fence around the entire church part of the property. There is a privacy fence that separates the actual lot split line between the church property and the residential property to the north. Mr. Bennett stated that the subject parcel is three properties. The church lots are 2823 and 2827 East Admiral Place and the house is 2828 East Admiral Court.

Comments and Questions:

Mr. Van De Wiele stated that the lot is of adequate size and if the Board approves the Special Exception the Board can exclude the panhandle so the house does not receive the benefit of allowing for church use.

Mr. Flanagan agreed.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke, Snyder absent) to **APPROVE** the request for a Special Exception to allow a church use in the RS-3 District (Section 5.020); Variance to reduce the minimum permitted lot area for a religious assembly use (Section 40.320-A); Variance to permit a gravel parking area (Section 55.090); Variance of the required parking for a church use (Section 55.020), subject to conceptual plan

12.11. For all the Variances and the Special Exception these will all exclude the north 93'-0" of the property; that being the residential property located at 2828 East Admiral Court. This approval is subject to the further condition that there not be access to the church use portion of the subject lot from East Admiral Court. The Variance for the gravel parking area is for a period of three years from today's date, June 14, 2016, at which point the parking areas of the church use portion will need to comply with the parking surface requirements of the Tulsa Zoning Code. This approval is subject to the further requirement that the applicant construct and maintain a screening fence between the approved church use portion and the excluded north 93'-0" portion in order to further restrict access from the portion of the property on Admiral Court to the portion of the property on Admiral Place. In connection with the parking variance the applicant has obtained permissive use from a nearby facility for overflow parking such that the church will provide a van shuttle service to the church use. 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. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

**PRT BLK 3 BEG SWC TH N185.63 E66.90 N93 E66.90 S139.24 W3 S139.24 W130.80
POB, POMEROY HGTS ADDN, SPEEDWAY HGTS ADDN RES PRT L4 L5-8 & 13-20
B2 POMEROY HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

22090—Bridford Enterprises, an Oklahoma General Company

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 60.080-F.5); Verification of the spacing requirement for a dynamic display outdoor

advertising sign of 1,200 ft. from any other dynamic display outdoor advertising sign facing the same traveled way (Section 60.100). **LOCATION:** 3141 East Skelly Drive South (CD 9)

Presentation:

William Hickman, 3141 East Skelly Drive, Tulsa, OK; stated is before the Board on behalf of Bridford Enterprises. This application is for a simple spacing verification.

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 (Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke, Snyder absent) that based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant's verification of spacing, as shown on page 13.7 in the Board's agenda packet, between outdoor advertising signs, for either a dynamic display or digital billboard, subject to the action of the Board being void should another dynamic display or digital or standard outdoor advertising sign be constructed prior to this sign; for the following property:

LT 4 BLK 1, TRADE WINDS ADDN RES L4-6 & PRT L14-16&17 B2 VILLA GROVE, QUIKTRIP NO 0041 RESUB PRT LTS 1 & 17 & ALL LTS 2 & 3 BLK 2 VILLA GROVE SUB, WEIR FIFTH ADDN RESUB PRT VILLA GROVE & TRADE WINDS ADDNS, VILLA GROVE SUB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

Report from Board Counsel re-trial in Barnes v Board of Adjustment, appeal of BOA case No. 21995, Tulsa County District Court Case No. CV-2016-132.

Mr. Swiney reminded the Board that a few months ago Mr. Carl Barnes and his wife came before the Board for a Variance in order to facilitate a lot split. They owned two lots in a neighborhood just off Riverside Drive on 25th Street. At that meeting one Board member was absent and another member recused from the discussion so there were only three members present. After Mr. Barnes's presentation two of the members voted to grant the requested Variance and the third member did not. As you know, under the Board's rules, a vote of three members is needed to pass any action. That would not be the case under Robert's Rules of Order; normally a two person affirmative vote out of a three member panel would be enough to carry a motion. Mr. Barnes appealed the

Board's decision to District Court and a trial was held on June 1, 2016 in front of Judge Fitzgerald. Mr. & Mrs. Barnes participated in that hearing along with Mr. Dolinsky who is a neighbor, who also attended the Board of Adjustment hearing. At the end of the trial Judge Fitzgerald took the matter under advisement and a few days later issued an order in which she found the fact that Mr. Barnes garage encroached over the property line presented a hardship that she understood. She did not find that in granting the Variances would cause substantial detriment to the neighborhood. Therefore she approved the Variances. Mr. Swiney stated that he discussed the order with Mr. Dolinsky and he and the other members of the neighborhood are discussing whether to appeal Judge Fitzgerald's decision to the Court of Civil Appeals. The Board of Adjustment has that right as well. If the Board wishes to discuss an appeal in detail Mr. Swiney would suggest that be done in an Executive Session rather than in an open meeting.

Mr. White stated that he was the member who recused from that hearing. Mr. White asked Mr. Swiney if, at this point, would mean any operational changes in the Board of Adjustment's handling of cases of this sort. Mr. Swiney stated the District Court has the same power as the Board of Adjustment to issue a Variance and that is what Judge Fitzgerald did. Judge Fitzgerald is not approving or disapproving the Board's action, she is acting independently in granting the Variance.

Mr. Van De Wiele asked Mr. Swiney what the appeal time would be if the Board were so inclined. Mr. Swiney stated the appeal time is 30 days from June 6th. There is another regular meeting scheduled in two weeks and Executive Session could be held at that time. An Executive Session is where a private a discussion is held between the Board and the Board's attorneys. In an Executive Session everyone is excluded and lock the doors because it is a private discussion.

Mr. Swiney stated that the first Mr. Barnes appeared before the Board was the summer of 2015. Mr. Barnes then simply moved the lot line to attempt to have another hearing before the Board. Technically these are two different cases and this hearing was decided under the old Zoning Code since his application was filed in December 2015. Judge Fitzgerald even mentioned in her decision that the case fell under the old Zoning Code.

Mr. Van De Wiele asked Mr. Swiney if the Board could vote today to hold an Executive Session at 12:45 on June 28th. Mr. Swiney stated that it the Board cannot vote on that today because the Executive Session itself must be on the Agenda. The Agenda must say "vote to enter Executive Session".

ELECTION OF OFFICERS for 2016-2017 Board of Adjustment year:

Seats currently held are: Frazier Henke – Chair
David White – Vice Chair
Tom Flanagan – Secretary

Tori Snyder
Stuart Van De Wiele

Mr. White reminded the Board that Mr. Henke has retired from the Board of Adjustment.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-0-0 (Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Henke, Snyder "absent") to **NOMINATE** and **ACCEPT** Mr. Stuart Van De Wiele as Chair, Mr. David White as Vice Chair, and Mr. Tom Flanagan as Secretary.

NEW BUSINESS

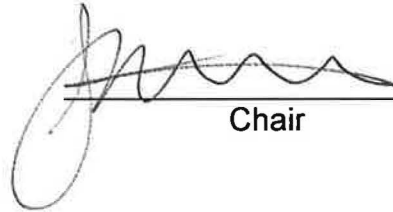
None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 4:08 p.m.

Date approved: 6/28/16



Chair