

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1165
Tuesday, July 12, 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, Chair White, Vice Chair Flanagan, Secretary Bond 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, July 7, 2016, at 10:01 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Van De Wiele 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. Van De Wiele explained to the applicants and interested parties that there were only four board members present at this meeting, and Mr. Bond is expected soon. 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. Van De Wiele 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 **WHITE**, the Board voted 4-0-0 (Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the June 28, 2016 Board of Adjustment meeting (No. 1164).

* * * * *

UNFINISHED BUSINESS

22074—Claude Neon Federal Signs

Action Requested:

Variance to allow a dynamic display sign within 200 feet of the R District (Section 60.100-F). LOCATION: 3902 East 11th Street South (CD 4)

Presentation:

Terry Howard, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, OK; stated the proposed is not oriented toward the residential area. He has met with the concerned home owners and they are now happy with the proposed sign.

Mr. Van De Wiele asked Mr. Howard if the sign had been relocated. Mr. Howard stated that the sign has not been relocated. The existing sign is there legally and has an LED gas price sign, and the LED message center will be added to that same sign.

Mr. Van De Wiele asked if the area lighting concerns have been addressed with the neighbors. Mr. Howard answered affirmatively. Mr. Van De Wiele asked Mr. Howard to explain how the concerns were addressed. Mr. Howard stated the lights have been adjusted to where they shine downward more on the property instead of outward toward the parking lot.

Ms. Snyder asked Mr. Howard about the eight foot fence or masonry fence the neighbor, Mr. Brown, had requested. Mr. Howard stated the fence has been discussed with Arkansas Valley and he does not know what the outcome of that discussion was.

Mr. White asked Mr. Howard if the sign would be on 24/7. Mr. Howard answered affirmatively. Mr. White asked if the sign would dim. Mr. Howard stated that the sign would be dim; the sign has a dimmer switch built into it with a photo cell for automatic dimming.

Ms. Snyder read Minutes from a past meeting pertaining to the subject site and a masonry wall located at 15th and Harvard that the concerned neighbor had referred to. Mr. Howard stated the masonry wall is a detention wall that had to be erected to separate a house from the business at that location.

Mr. Van De Wiele asked Mr. Howard what his hardship for this case will be. Mr. Howard stated the sign is made to be read from 11th Street and it is a legal sign.

Mr. Van De Wiele asked Mr. Howard if the store is open 24 hours. Mr. Howard answered affirmatively.

Ms. Snyder stated that she is concerned that Mr. Brown, the neighbor, thinks there will be a fence and she needs reassurance that there will be a fence erected to protect Mr. Brown.

Mr. Van De Wiele asked Mr. Howard if he understood that there is a fence being built on Mr. Brown's property. Mr. Howard stated that he is not sure but he knows that a fence line has been staked out and flagged on the south property line but he is not sure what the plan is. Mr. Howard stated that he called Arkansas Valley before the meeting and the representative stated that Mr. Brown is happy.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Variance** to allow a dynamic display sign within 200 feet of the R District (Section 60.100-F), subject to conceptual plan 2.13. The dynamic display will be added to the existing sign location on the subject property. The lights on the west side of the building are to be directed downward and away from the surrounding neighborhood. Also, a deflector shield is to be installed on the LED portion of the subject sign on the south pole on the western face to keep the light shining into the residential neighborhood. The sign is to operate on an automatic dimmer for the lights using a photo cell. 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 8 THRU 12 BLK 1, MAYO ADDN, City of Tulsa, Tulsa County, State of Oklahoma

18330-A—Terry McGee

Action Requested:

Minor Special Exception to modify a previously approved site plan to permit a temporary building (Section 70.120-E.1.c). **LOCATION:** 1365 East 46th Street North (CD 1)

Presentation:

Terry McGee, 3227 North Birmingham Avenue, Tulsa, OK; stated he is before the Board today as a result of the tornado on March 30th. The church would like to have a temporary trailer to be able to perform office work while the church is under construction. In 1999 the church applied for a Special Exception to build an accessory building but never built it.

Interested Parties:

There were interested parties present but they did not speak.

Comments and Questions:

None.

Mr. Bond entered the meeting at 1:24 P.M.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; Bond “abstaining”; none absent) to **APPROVE** the request for a Minor Special Exception to modify a previously approved site plan to permit a temporary building (Section 70.120-E.1.c), subject to conceptual plan 3.12. This approval is for one year from today’s date, to July 12, 2017. Finding that the conditions are 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 or meets the zoning requirements, per code; for the following property:

W/2 SE SW SW OR LT 4 SEC 7 20 13, City of Tulsa, Tulsa County, State of Oklahoma

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)

Mr. Van De Wiele and Mr. White both recused at 1:26 P.M.

Presentation:

Larry Reidel, 1917 South Cypress Avenue, Broken Arrow, OK; stated he used the original plat map for this project and everything was approved. He was even told there were no easement problems. When the owner wanted to add onto the house on the south side he discovered the numbers did not add up. Mr. Reidel stated that is when he hired White Surveying Company for a new survey. After the survey was completed it was discovered that the corner of the pool cabana was on the corner of the easement right-of-way and everything was already built.

Ms. Miller asked Mr. Reidel if he had submitted for a license to build in the right-of-way. Mr. Reidel answered affirmatively and stated that it has been done. Ms. Miller asked Mr. Reidel if that meant it had been submitted or approved. Mr. Reidel stated that this has gone through engineering and everything, but has not been before City Council.

Mr. Reidel stated that the hardship for this case is that the original plat map was used for construction purposes.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 3-0-2 (Bond, Flanagan, Snyder “aye”; no “nays”; Van De Wiele, White “abstaining”; none absent) to **APPROVE** 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), subject to per plan 4.8. The applicant relied upon an original plat map when the pool permit was obtained and it was approved. After the structure was complete there was a new survey performed and that is when the applicant found that the structure was in the setbacks. This approval is

subject to a license agreement approval from the City of Tulsa. 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 9 10 11 & 12 & E10 VAC ALLEY ADJ ON W BLK 8, MORNINGSIDE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele and Mr. White both re-entered the meeting at 1:35 P.M.

NEW APPLICATIONS

22067—Frank Alchami

Action Requested:

Special Exception to permit a car sales in the CS District (Section 35.050);
Variance to allow outdoor storage and merchandise within 300 feet of an abutting R-zoned lot (Section 15.040). LOCATION: 621 South Sheridan Road East (CD 3)

Presentation:

Cecil Drummond, Attorney, 5200 South Yale, Suite #507, Tulsa, OK; stated Mr. Alchami has been a member of the community for many years and use to have Frank's Restaurant on South Sheridan. Mr. Alchami has always helped other people in need and now has opened a tire business on South Sheridan. There are several people here today that are in support of the application and there is a letter with signatures from the

neighbors. Mr. Alchami's business has increased property values in the area because the subject property was in a deteriorated state and he has now improved the subject property. Mr. Alchami has satisfied any requests from the neighbors to include the installation of a privacy fence. Mr. Alchami would like to start selling cars on the subject property. He has his license, insurance and permits that are required and now he is before the Board to obtain relief needed.

Fawaz "Frank" Alchami, 5616 South 89th East Avenue, Tulsa, OK; stated that he renovated the building to open the tire store. Originally he installed a chain link fence with razor wire across the top but one of the neighbors complained saying the fence made the business look like a jail. So he removed the razor wire. Then the neighbor complained that the neighbors could see the tires so he installed a tennis court type screen. The neighbor then complained about mosquitoes and Mr. Alchami showed her that he had a pest control company spraying the property every other week. This neighbor then requested that a privacy fence be erected around the business so he had a privacy fence installed and painted it. Mr. Alchami stated that all his tires are stacked on pallets to keep them off the ground and he has a contract with a pest control company to spray every other week for mosquitoes, and an inspector from Oklahoma City made an inspection of the property and found nothing wrong.

Mr. Van De Wiele asked Mr. Alchami how many cars he planned to have on the subject property at any given time. Mr. Alchami stated there would be no more than 15 cars. Mr. Van De Wiele asked Mr. Alchami if any of the cars would be junk cars or cars that needed to be worked on. Mr. Alchami stated that when he purchases cars he takes the car to a mechanic shop for any repairs and then he places it on his lot for sale.

Mr. White commended Mr. Alchami on initiating the pest control procedure because the water in tires and the mosquitoes is a problem the Board has been dealing with for years.

Interested Parties:

Theresa Landers, 6930 East 7th Street, Tulsa, OK; stated she lives about two blocks from the subject property. Ms. Landers stated that she is not a fan of car and tire businesses because of bad past experiences. When Frank's came into the neighborhood he installed nice chain link fencing with the prison wire on top. The neighbors requested a privacy fence and to do away with the prison wire which he did. The neighbors discussed the possible mosquito problems and he presented them with a pest control contract for spraying every two weeks. Ms. Landers stated that she is out in her yard a lot and she has had no extra mosquitoes this year, and probably has fewer this year than in the past. Ms. Landers stated that she does have a concern over the cars becoming more than 15. Ms. Landers stated that Mr. Alchami keeps everything nice and neat and therefore she has not objections to the business coming into the neighborhood.

Derek Wunch, 1709 East 50th Street South, Apt. #10, Tulsa, OK; stated he has known Mr. Alchami a little over 20 years. Mr. Wunch stated that he has worked with car

dealerships in the past and now he is in business for himself. Mr. Wunch stated that he has painted Mr. Alchami's store front windows for several years and Mr. Alchami is a very generous person.

Sher Nunley, 7309 South Mingo Road, Apt. #1514, Tulsa, OK; stated that she does not live in the subject neighborhood but is a customer of Mr. Alchami's. She met him because she was in desperate need of a tire. Ms. Nunley stated that he is very concerned about his business and his customers, and his entire staff is very courteous and respectful. It is very important for Tulsa to have honest business people that do not take advantage of their customers.

Al Stewart, P. O. Box 1029, Haskell, OK; stated that he has known Mr. Alchami for 20 years. Mr. Alchami fed him when he was hungry and gave him work when he needed work. Mr. Alchami will be there to help anyone with a tire whether they have money or not.

Stephanie Daywalt Clay, 6518 East 7th Street, Tulsa, OK; stated she lives in front of Frank's Tire Shop and has been lived there for a little over eight years. Ms. Clay stated that Mr. Alchami's staff is very respectful and Mr. Alchami has become a friend that she has coffee with in the morning. She is impressed with how clean he keeps his lot. The privacy fence Mr. Alchami installed is very nice and she feels secure in her house now. Ms. Clay stated that Mr. Alchami has been very accommodating to the neighbors to make sure they are pleased with what he is doing and has done. Ms. Clay stated the Mr. Alchami is an asset to the community.

Michael Williams, 7304 East 6th Street, Tulsa, OK; stated he used to be the block captain for the neighborhood watch. Mr. Williams stated he has known Mr. Alchami since 2003. Mr. Williams stated that he was glad to hear that Mr. Alchami purchased the subject property because it used to be riddled with crime.

Ron Kelly, 29859 East 154th Street South, Coweta, OK; stated he is an Area Field Manager for U-Haul. Mr. Kelly stated that he met Mr. Alchami at the end of 2015. Since Mr. Alchami purchased the subject property he cannot believe the change in the area and the City of Tulsa needs to keep Mr. Alchami.

Anthony Eversole, 9324 South Oxford Avenue, Tulsa, OK; stated he has been a friend of Mr. Alchami's for years. Mr. Eversole stated that Mr. Alchami is a true and honest man and whatever he says he will do he will do. Mr. Eversole stated that Mr. Alchami is very meticulous in whatever he does.

Comments and Questions:

Mr. White stated that this is his 20th year on the Board of Adjustment and he wants to commend Mr. Alchami on all his achievements, because there are always complaints from neighbors about tire stores, mosquitoes and their uncleanliness. Mr. White stated that he appreciates what Mr. Alchami has done and has no problem with this request.

Mr. Flanagan stated that Mr. Alchami is an excellent tenant and he takes care of the property as if it is his own. Mr. Flanagan stated that he too has no problem with the request.

Mr. Bond stated that after reviewing the litany of procedural histories of the adjoining properties he thinks this is in keeping with and a bonus to the neighborhood. Mr. Bond stated that it is very heartening to see these people here speaking about a great Tulsan and a great American.

Ms. Snyder stated that she has not problems with the request. She expressed her thanks to Mr. Alchami because it is really nice to have an applicant come before the Board that has worked with the neighborhood and makes them proud.

Mr. Van De Wiele stated that he too does not have a problem with the request, especially by placing a limitation on the number of cars. He thinks the pest control is a great idea. The level of neighborhood involvement, not only this matter, but it sounds like in the day-to-day business it is commendable. Mr. Van De Wiele stated that Mr. Alchami should be proud because he does done a good job in all aspects of his business and he is proud to have Mr. Alchami as a Tulsan.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Special Exception to permit a car sales in the CS District (Section 35.050); Variance to allow outdoor storage and merchandise within 300 feet of an abutting R-zoned lot (Section 15.040), subject to “as built” and as it is currently in operation. The approval for car sales will be for a maximum of 15 cars and they need to comply in accordance with the City’s parking standards in Section 55.090. Sales will be limited to tires and operable vehicles only. The pest control procedure that the applicant has started is to be a continuing process through the months of April through September. 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:

LT 12, 13, 14 and W 25 LT 15 BLK 13; SHERIDAN HILLS, City of Tulsa, Tulsa County, State of Oklahoma

20318-C—Mike Asfour

Action Requested:

Modification of a previously approved Special Exception (BOA-20318-A) to increase the allowed amount of displayed vehicles from 85 to 145. **LOCATION:** 602 South Sheridan Road East (CD 5)

Presentation:

Mike Asfour, 6920 East 50th Place, Tulsa, OK and **Tina Soin**, Gable Gotwals, 100 West 5th Street, Suite #1100, Tulsa, OK; Ms. Soin stated the applicant is requesting a modification to a previously approved Special Exception to allow an increase in the number of vehicles allowed on the lot from 85 to 145.

Mr. Van De Wiele asked Ms. Soin how this request is different from the application that was before the Board last November. Ms. Soin stated that the main difference is that the applicant now has a site plan showing how the parking will be distributed on the lot and that there will be 151 spaces to accommodate 145 cars for sale plus six customer parking spaces.

Mr. Van De Wiele asked Ms. Soin how many cars are on the lot today. Mr. Asfour stated that today there are approximately 160 cars. Mr. Asfour the number of cars has been reduced by about 100 cars from the last hearing. Mr. Asfour stated that he has been working on the plan for about six months to get close to the presented site plan.

Mr. Van De Wiele asked staff if the parking lot diagram has been submitted and meets Section 55.090 as far as stall width, driving lane, etc. Ms. Moyer stated that as far as she knows the parking shown on page 6.26 has not been submitted to the City of Tulsa but she does not know whether it meets the zoning requirement because there are not measurements included. Ms. Soin stated the applicant would be willing to submit the plan to the City and go through the process.

Mr. White stated that the plan does not have any dimensions on it and he would like to see it dimensioned and indicated as an engineering plan or a proper survey layout with the signature of a licensed engineer or surveyor.

Mr. Van De Wiele informed the applicant that Section 55.090 defines how wide the stalls need to be, how wide the drive aisle needs to be depending on the angle of the parking spaces, etc. Mr. Van De Wiele commended the applicant in making good strides in getting the subject property cleaned up. Mr. Asfour stated that he has painted the building, paved the rear portion of the lot, cleaned up the lot and has even mowed his neighbor's yard.

Mr. Van De Wiele asked Mr. Asfour if he planned on striping the lot and having dedicated spaces using the presented diagram. Mr. Asfour answered affirmatively. Mr. Van De Wiele asked Mr. Asfour if there is going to be dedicated employee parking. Mr. Asfour answered affirmatively.

Mr. Asfour stated that starting next year there will not even be 145 cars on the lot. He is working on having less and less cars every year.

Mr. Van De Wiele asked staff if there was a person at INCOG that could study the parking site plan to determine whether the plan complies with Section 55.090 or is it a permitting issue. Ms. Miller stated that since the applicant is only modifying a previous Special Exception a letter of deficiency was not requested by INCOG staff. Ms. Miller stated this is an interesting situation because it is an existing parking lot and there are a lot of standards that this parking lot would not meet, i.e., landscaping. Because the Code does not specifically state that car sales must meet parking lot standards this would be a meeting that needs to happen with the applicant. Under the Board's recent conditions, it is required that the applicant at least meets the dimensions of the parking lot standards but she is not sure if the landscape requirements are included. Ms. Miller stated the INCOG staff can look at the diagram if there are dimensions provided to see if the applicant meets the parking standards.

Ms. Soin stated that at the time the previous application for 85 cars was approved the back parking area was not paved, so the plan now has a larger lot size. Mr. Asfour stated that three years ago he paved the southwest corner of the subject property and two months ago he paved the northwest corner.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of FLANAGAN**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Modification of a previously approved Special Exception (BOA-20318-A) to increase the allowed amount of displayed vehicles from 85 to 145. The 145 number is arbitrary to the spacing is in accordance with the parking standards in Section 55.090. The applicant is to submit a parking plan to INCOG for their approval that will satisfy the

distance requirements required by the Zoning Code. This approval is subject to a maximum of 145 operable cars on the subject property. To approve the requested Modification to the Special Exception, the Board may consider any condition it deems 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 or meets the zoning requirements, per code. All prior approval conditions in case BOA-20318 will apply and they are as follows:

- ❖ All parking surfaces to be concrete or asphalt
- ❖ Maintain sidewalks on 5th and South Sheridan
- ❖ Screening on the south and west sides of the entire property
- ❖ No outside repair of vehicles, storage of parts or batteries, etc.
- ❖ Any fence along Sheridan Road to be limited to three feet in height;

for the following property:

E195 TR 31, GLENHAVEN, City of Tulsa, Tulsa County, State of Oklahoma

22102—Lemuel Adams

Action Requested:

Variance to permit a dynamic display sign within 200 feet of the R District (Section 60.100). **LOCATION:** 2118 East 3rd Street South (CD 4)

Presentation:

Lemuel Adams, Green Country Advertising, 6016 West Okmulgee Avenue, Muskogee, OK; stated this application is for a dynamic display outdoor LED sign for a restaurant. The LED display is equipped with an automatic dimmer and it will be turned outside the business hours. The planned hours of operation are 10:00 A.M. to 10:00 P.M. The existing pole is too small to support the sign so a larger pole will be installed. The building will block the majority of the sign from the residential area because the sign sits east of the edge of the building.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Variance to permit a dynamic display sign within 200 feet of the R District (Section 60.100), subject to conceptual plans 7.9, 7.11 and 7.12. The hours of operation will be 10:00 A.M. to 10:00 P.M., seven days a week. The dynamic display will operate on an automatic dimmer using a photo cell. 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:

S5 LT 1 & ALL LTS 2 3 & 4 BLK 10, WAKEFIELD, City of Tulsa, Tulsa County, State of Oklahoma

22103—Lemuel Adams

Action Requested:

Variance to permit a dynamic display sign within 200 feet of the R District (Section 60.100). **LOCATION:** 1624 South Memorial Drive East (CD 5)

Presentation:

Lemuel Adams, Green Country Advertising, 6016 West Okmulgee Avenue, Muskogee, OK; stated this application is similar to the previous request he just presented to the Board previously, but this sign backs up to an apartment complex. The sign will have the automatic dimmer on a photo cell. The hours of operation are planned to be 8:00 A.M. to 5:00 or 6:00 P.M.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to permit a dynamic display sign within 200 feet of the R District (Section

60.100), subject to conceptual plans 8.12, 8.13 and 8.14. The hours of operation will be 7:00 A.M. to 9:00 P.M. The dynamic display will operate on an automatic dimmer using a photo cell. 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:

E/2 SE SE NE SE & E25 W/2 SE SE NE SE LESS E60 & LESS S30 THEREOF FOR STS SEC 11 19 13 0.90AC, City of Tulsa, Tulsa County, State of Oklahoma

22104—Amelia Valdez

Action Requested:

Special Exception to permit a driveway width greater than 20 feet in the RS-4 District (Section 55.090-F.3). **LOCATION:** 2015 East 4th Place South **(CD 4)**

Presentation:

Amelia Valdez, 2015 East 4th Place, Tulsa, OK; stated she would like to be able to park her vehicles in the front of her house and to do so she needs to widen the driveway.

Mr. Van De Wiele asked Ms. Valdez if she accessed her property from the alleyway or if she accessed her property from the north. Ms. Valdez stated she accesses her property from the alleyway.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a **Special Exception** to permit a driveway width greater than 20 feet in the RS-4 District (Section 55.090-F.3), subject to conceptual plan 9.8. The Board has found that this will complete the solid surface required for the driveway in front of the existing residence. 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:

E70 OF S350 BLK 17, GILLETTE-HALL ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22105—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to permit a sports and performance center with indoor and outdoor volleyball courts, basketball courts, soccer fields, fitness center, and high performance training in the IL District (Section 15.020). **LOCATION:** East of the NE/c of West 81st Street South & South Elwood Avenue **(CD 2)**

Presentation:

Lou Reynolds, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated he represents the Titan Sports & Performance Center. The subject property is 59 acres in size and zoned IL. There have been several projects proposed for the subject property but the projects never work because of the neighboring airport. The new Jenks school is being built and Titan Sports will have after school activities arranged for the school children. The planned building will be 175,000 square feet and inside the building there will be eight basketball courts, 16 volleyball courts, two indoor soccer fields, and athletic training facilities for strengthening, speed and conditioning. Outside the building there will be 12 fields and 10 fields will be full time soccer fields and two will be Lacrosse fields that can also be used for soccer. Mr. Reynolds had renderings of the proposed building placed on the overhead projector. There are 1,907 parking spaces proposed for the building which is more than the Code requires, but he believes these are more parking spaces than the building will need. The parking is proposed to be paved with parking grass pavers so that it is not an all impervious surface. The proposed landscaping is more than the Code requires. There is an access point from 81st Street and there is another access point on the lower portion of the property. On the north side of the property the driveway will be extended so there is access from West 71st Street, and an agreement with the City is being worked on for this step. Everything is being done to minimize the effect on the area. Mr. Reynolds stated that he has worked very closely with the Airport Authority and kept them informed on the project. Mr. Reynolds stated that he has met with Councilor Cue and she is very supportive of the

project. Mr. Reynolds would request the Board to approve the Special Exception for the sports facility.

Interested Parties:

Mel Hair, 7703 South Elwood, Tulsa, OK; stated his property is immediately west of the subject property. He has lived in the area most of his life and is very knowledgeable about the property. Mr. Hair believes the project cannot be completed as proposed due to the fact that over half of the 59 acres are recognized as a wetland. Over a year ago he stood before the Board and showed that the Jenks school could not be built as proposed due to excessive runoff that occurs in the area. The neighbors were assured that all runoff would not affect the adjoining properties. Mr. Hair believes the proposed project cannot be completed without elevating the area causing the surrounding areas to flood. Mr. Hair had photos placed on the overhead projector showing extensive silting, 18 inches deep that has occurred on his property and on the neighbor's property to the south. Mr. Hair stated that the high property to the north is the sewage treatment plant, the high property to the east is the levee/railroad tracks, high ground to the south is Riverside Airport, and the Hager Creek Levee borders all the affluent runoff; it extends from south of Turkey Mountain from 71st Street all the way down Elwood. There are three major affluences that come into the zone and it is flooding consistently since the school has cleared their 14 acres. The Hager Creek Levee has forced the water upstream and in his topographical opinion there needs to be a holding pond, Hager Creek has to be reversed and the water has to flow through the levee to the river in floor stage. The Board needs to be aware of the Elwood and 81st Street flooding situation that is taking place. The wetland was originally affluence to Hager Creek that originally flowed across Riverside Airport and came out through Jenks. The water has now been forced uphill by the Corp of Engineers and that is why the flooding exists. Mr. Hair stated that Mr. Reynolds is the same person that told Jenks School would not have a runoff problem and all the water would be contained. Mr. Hair stated that he hopes the Board will consider what is about to happen here because this project will flood all the adjoining properties.

Dennis Hall, 404 West 81st Street, Tulsa, OK; stated he lives at the southeast corner of 81st and Elwood and has lived there since 1994. He cannot remember how many times the streets and 81st and Elwood have been closed due flooding. A person cannot pass the creek where it crosses 81st Street because the water is too deep in a good rain. He thinks the project would be a great project for the area but the problem is that the infrastructure is not in place to support 1,900 cars or even 1,000 cars in the area. Assuming all the area will be paved the runoff will be increased significantly because it will not drain now. Something has to be done with the drainage. He hopes the people that are proposing the development have given consideration to the fact that is going to be a real problem when it rains, particularly if there is an event happening. Flooding is virtually instantaneous in a downpour.

Mr. Van De Wiele stated that Mr. Reynolds has stated that there is a pervious surface proposed for the area, and a pervious surface allows water to drain through because it

is not solid like asphalt or concrete. Mr. Hall stated that surface would be helpful but there will still be a lot more runoff after the facility is developed.

Mr. Hall stated that he is not opposed to the project but something has to be done with the runoff before there is any building in the area. At this point in time the proposal is not suitable. If the City would come in and do some work the project could be wonderful.

Bill Satterfield, 1 West 81st Street, Tulsa, OK; stated he has lived there since 1980 and he owned the subject property at one time. The neighbors are prodevelopment but there is a flooding problem there. The flooding problem is not natural. It is manmade because of the levee. This proposed project should not be burden with the outcome of something that can be corrected by the governmental agencies. Mr. Satterfield stated that he has spoken directly with the Corp of Engineers, the City, and the County and with Jenks. The flooding issue needs to be corrected by the government. Mr. Satterfield stated that a grant had been given to the airport for a retention pond with a 56" line all the way to the river with a back flap. At the time, he asked County Commissioner Miller why the 81st and Elwood flooding was not included in the grant, and Commissioner Miller stated that the City did not want to do that. The suggestions that have been made would impede the proposed development's use of land. The flooding issues are caused by a secondary levee that was installed in 1911 and never has had a useful purpose per the Corp of Engineers. This is a good project for Tulsa and the problems are fixable, please don't let another project go to Jenks.

Johnie Egbert, 1515 South Frisco, Tulsa, OK; stated she owns property located at 7817 South Elwood. She has investigated developing her property through the years, and she too would like to have access to 71st Street but that would not affect runoff. Every time it rains she cannot use 81st Street and that has always been a problem. Ms. Egbert stated that she is in favor of the project.

Rebuttal:

Lou Reynolds came forward and stated there has been a predevelopment meeting regarding this project, and he is before the Board of Adjustment on a land use matter. Stormwater is not something that is a Board of Adjustment venue, but because this is a stormwater sensitive area he went before the Predevelopment Committee at the City. What happened in the process was that to the extent that the subject property has runoff it will be captured and taken straight to the Arkansas River. That is what his client has been asked to do and that is what he plans to do. The property needs to be platted and the issues, whether access is appropriate or not appropriate, or how stormwater is treated will come about in the platting process.

Mr. Flanagan asked Mr. Reynolds if there would be a problem in granting community easement access. Mr. Reynolds stated that it depends on the terms and what they mean. Will the neighbor pay for the road? Will the neighbor pay for the maintenance? There are a lot of things that need to be figured out. If the City does not think there is an access that needs to be given he believes that community access is something that

is certainly not shared per gratis because the subject property is 60 acres and the neighbor has 15 acres. If this is something that is to be there has to be terms that are acceptable to his client. He does not know if community access is truly needed but he would be happy to discuss a mutual access easement. In the platting process the City of Tulsa can decide what kind of access should be there, but in terms of access easements if the neighbors want to discuss those, contribute and participate in the process he would be happy to sit down with them to work on agreement.

Mr. Van De Wiele asked Mr. Reynolds if the subject property was a ½ mile deep. Mr. Reynolds stated the subject property is a ½ mile north and south, and at the top it is ¼ mile. Mr. Van De Wiele asked Mr. Reynolds if he was talking about a ½ mile access drive all the way to 71st Street. Mr. Reynolds answered affirmatively.

Mr. Reynolds stated that to keep the numbers in perspective, on an average day there will be 1,700 cars over a 15 hour period.

Mr. Van De Wiele asked staff if the Board needed to make the approval subject to approval of the final platting if the Board should choose to vote that way. Ms. Miller stated this process triggers the platting requirement so that would not be necessary.

Comments and Questions:

Mr. Van De Wiele stated that this Board does not have jurisdiction over water retention and water runoff. Those items are reviewed and subject to platting requirements and permitting requirements. There are times when there are flooding issues in spite of all the permits and reviews and water retention plans being in place. It is something that is relevant to everything but it is not necessarily relevant to the use of the property and this Board's authority in requirements as to what they are approving or not approving in connection with uses.

Ms. Snyder stated that three of the surrounding property owners have stated that they are in support of the project and/or development. If in fact the flooding issues will be addressed once the Board approves this request it seems like this could be a good thing for everyone.

Mr. Bond stated that the Board is not being dismissive of the neighbors concerns; they sound very valid. It is just not something this Board deals with.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to permit a sports and performance center with indoor and outdoor volleyball courts, basketball courts, soccer fields, fitness center, and high performance training in the IL District (Section 15.020), subject to conceptual plan 10.7. 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:

**W/2 SE SW SEC 12 18 12 AND NE SW LYING SW RR ROW SEC 12 18 12 39.85 AC,
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

OTHER BUSINESS

None.

NEW BUSINESS

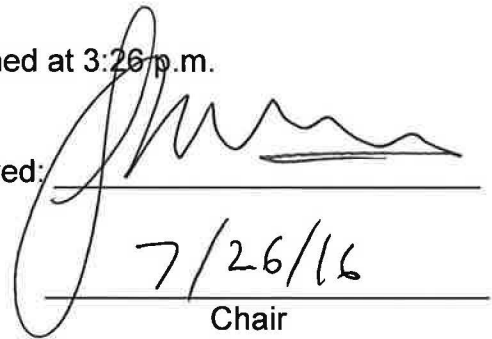
None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 3:26 p.m.

Date approved:



7/26/16

Chair