

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1205  
Tuesday, May 8, 2018, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2<sup>nd</sup> Street

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Van De Wiele, Chair Flanagan, Vice Chair Back, Secretary Ross	Bond	Foster Ulmer Sparger R. Jones	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on May 3, 2018, at 1:21 p.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.

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

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**MINUTES**

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the April 24, 2018 Board of Adjustment meeting (No. 1204).

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Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today. Any motion will require an affirmative vote of three of the remaining four members. When there is less than a full Board the Board will entertain a request to continue agenda items to a later meeting date, at which all five members of the Board may be present. 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. The audience nodded their understanding and no one came forward to request a continuance.

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**UNFINISHED BUSINESS**

**22397—Donny Beeler**

**Action Requested:**

Variance to reduce the minimum lot area and lot area per unit; Variance to reduce the minimum street frontage to 0 feet in an AG District; Variance to reduce the required lot width to permit a lot split (Section 25.020); Variance to allow a non-all-weather parking surface material (Section 55.090-F). **LOCATION:** 8217, 8223 and 8231 South Maybelle Avenue West (CD 2)

**Presentation:**

The application has been withdrawn.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

No Board action required; for the following property:

COMM SWC S/2 N2/3 N/2 NE TH E846.50 POB TH E712.78 N227.12 W1559.28 TO WL NE TH S13.50 E846.50 S213.56 POB SEC 14 18 12 3.98ACS; COMM SWC S/2 N2/3 N/2 NE TH E180 POB TH E666.50 N213.56 W846.50 TO WL NE TH S13.50 E180 S200 POB SEC 14 18 12 3.32ACS; BEG 227N SWC S/2 N2/3 N/2 NE TH E1559.28 N215.57 TO NL S/2 N2/3 N/2 NE TH W912.58 S202.07 W646.70 TO WL NE TH S13.50 POB LESS E456.29 THEREOF SEC 14 18 12 LIFECHURCH.TV JENKS ADDITION 2.258AC, City of Tulsa, Tulsa County, State of Oklahoma

**22412—Christian Ortiz**

**Action Requested:**

Variance of the allowable number of freestanding signs (Table 60-2) and display area for freestanding signs in the IL District (Table 60-3). **LOCATION:** 5230 South Mingo Road East (CD 7)

**Presentation:**

**Christian Ortiz**, Encinos 3D Custom Products, 9810 East 58<sup>th</sup> Street, Tulsa, OK; came forward and waited for the Board to ask questions.

Mr. Van De Wiele stated that at the last meeting the Board had requested that either the tenant, owner, or the prior owner of the property come to this meeting to inform the Board how this billboard is still on the subject property and to have them present a hardship for the request of a free-standing sign. Mr. Ortiz stated that he was unable to have a representative from Fresenius Kidney Care attend today's meeting. Mr. Ortiz stated that he was able to obtain more information. At the previous meeting it was stated that Fresenius Kidney Care was the owner of the property but that was incorrect, they are a tenant. Mr. Ortiz stated that they were not informed that the billboard would be an issue for them to place an on premises sign for the business. The architect also was under the impression that when the signage had been submitted to the City of Tulsa with the initial drawings and there were no red flags they could proceed and had the signs manufactured. The tenant of the subject property was not told the billboard would affect their request. Mr. Ortiz stated he did attempt to contact the billboard owner and received no feedback. He also reached out to the property owner and the property owner stated the lease on the billboard owned to the previous owner of the subject property.

Mr. Van De Wiele asked Mr. Ortiz if he was saying the current owner of the property, the landlord to Fresenius Kidney Care, doesn't own the lease to the billboard. Mr. Ortiz answered affirmatively.

Mr. Van De Wiele stated he looked at the Tulsa County Assessor's website, and it looks like the current landowner, Broken Arrow Renal Construction, LLC, bought the property December 12, 2017. Mr. Van De Wiele asked Mr. Ortiz if he knew when his client's site was built. Mr. Ortiz stated that it was built shortly after that, but he does not have an exact date.

Mr. Van De Wiele stated the Letter of Deficiency from the Sign Plan Review is dated December 5<sup>th</sup>, which was a week before the property changed hands. Mr. Van De Wiele stated that when he looks at the paperwork somebody knew there was an issue with the freestanding sign before the land changed hands. He understands the need and the desire for the request, but he is having a hard time finding a hardship that is not financially driven. That is why he wanted to have the current land owner, or someone with the knowledge, to come before the Board to explain how there is a lot that has a billboard that is owned by one person, leased by another, and the rest of the ground owned by a third party. Mr. Ortiz stated that he understands what Mr. Van De Wiele is saying. Mr. Ortiz stated that he was contracted by another sign company out of Houston to install the sign in the request.

Mr. Van De Wiele stated the Board has to have a hardship that is not self-imposed by Fresenius or one that is not financial.

Ms. Ross asked if the records showed who owned the property prior to this. Mr. Van De Wiele stated that it was the Milton Berry Trust. The trust purchased the property in April 2017 and December 2017 the property changed hands to Broken Arrow Renal Construction, the landlord of Fresenius Kidney Care.

Mr. Ortiz stated he received the information in October or November when they were initially starting the construction on the signage. He informed them of the LOD and explained to them that the billboard was consuming the entire sign budget. At that point there was uncertainty of how to proceed. Mr. Ortiz stated he believes the tenant was never informed about the situation.

Ms. Back asked Mr. Ortiz how Fresenius Kidney Care was unaware of the situation. Mr. Ortiz stated that he was employed by Gold Signs in Houston to install the subject sign. When he informed Gold Signs about the LOD, the property was already under construction for Fresenius Kidney Care. Gold Signs built and shipped the sign to Encinos 3D prior to the permits being submitted. Mr. Ortiz stated that he assumes that before any of this information was made privy to Fresenius Kidney Care and the tenant of the property, the signage had already been processed and built. Mr. Ortiz stated that he thinks that when the building plans permits had been submitted for the facility the signage had been included and they assumed that included sign permitting.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Mr. Van De Wiele stated that if this request had not already been continued a couple of times he would send Mr. Ortiz back to the drawing board with all the various parties, but it sounds like he has reached out to them. The parties are either not appreciating the impact of the sign. This request has no impact on the wall signage, it is truly just the sign designated on page 3.12 of the agenda packet. He personally does not have a hardship that he can see to grant a Variance to give another free-standing sign. He thinks this is financially driven. He will vote to deny this sign and let the tenant, landlord and prior owner discuss this situation.

Ms. Back stated that she too cannot come up with a hardship. She was hoping that the interested parties would have attended today to support Mr. Ortiz.

Mr. Flanagan agreed and stated that he too thinks it is financially driven.

Ms. Ross agreed. She thinks Fresenius Kidney Care should look at their lease to see if they have legal recourse to have the billboard removed.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **DENY** the request for a Variance of the allowable number of freestanding signs (Table 60-2) and display area for freestanding signs in the IL District (Table 60-3); for the following property:

**Lot 1 Block 1, 51ST & MINGO COMMERCIAL CENTER, 5200 MINGO COMMERCIAL RESUB PRT RES A, 5300 COMMERCE PARK, City of Tulsa, Tulsa County, State of Oklahoma**

**22425—Christian Ortiz**

**Action Requested:**

Variance to permit an additional wall sign in an OM District to be located on the East building wall without any street frontage (Section 60.060-B). **LOCATION:** 2845 East Skelly Drive South (CD 9)

**Presentation:**

**Christian Ortiz**, Encinos 3D Custom Products, 9810 East 58<sup>th</sup> Street, Tulsa, OK; stated this property is also leased by Fresenius Kidney Care. The property is zoned OM and currently Fresenius is allowed one sign. However, due to the narrow property and the expansion of I-44 the building is built so the entrance is to the east elevation of the property. Fresenius would like to have a wall sign at the entrance to direct their clients to find the front door easier.

Mr. Van De Wiele asked Mr. Ortiz where the sign would be placed. Mr. Ortiz stated that it will be on the brick wall north of the doors.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to permit an additional wall sign in an OM District to be located on the East building wall without any street frontage (Section 60.060-B), subject to conceptual plans 4.9 and 4.10 of the agenda packet. The Board finds the hardship to be the lot situated to the existing I-44 right-of-way and the positioning of the building, and the front door facing away from the main traffic flow. The Board finds 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:

**E370.45 LESS E20 LT 1 BLK 1, WEIR ADDN RESUB PRT L13-18 B9 VILLA GROVE ADDN, WEIR FOURTH ADDN RESUB PRT WEIR & WEIR THIRD ADDNS, VILLA GROVE SUB, City of Tulsa, Tulsa County, State of Oklahoma**

**22432—Brian Henley**

**Action Requested:**

Special Exception to permit a religious assembly in the RS-3 District (Section 5.020); Variance of the required 25-foot setback from an adjacent R District for Special Exception uses (Section 5.030); Variance of the required lot area for a religious assembly use in R Districts (Section 40.320-A); Variance of the required parking from 25 spaces to 0 spaces (Section 55.020). **LOCATION:** NW/c of East 1<sup>st</sup> Street South & South Atlanta Avenue East (CD 4)

**Presentation:**

**Brian Henley**, Architect, Silo Design Build, 516 South Boston Avenue, Tulsa, OK; stated this project is for St. Francis Catholic Church on 1<sup>st</sup> Street and Atlanta Avenue. They have acquired three properties to the west of the existing church thus expanding their footprint in the neighborhood. Part of the project is to create a plaza for church and community use with a small adoration chapel and gazebo.

Mr. Van De Wiele asked Mr. Henley if there had been any discussions with the neighbors. Mr. Henley stated he has letters of support and submitted those to the Board.

**Gabe Palacios**, Silo Build Design, 516 South Boston Avenue, Tulsa, OK; stated there is an abundance of parking at the church as well as the surrounding available street parking. This is not a church, so it will not be used as much as the church. The property itself is less than an acre but it is an addition to the entire existing campus. The new adoration chapel is set back as far on the property as possible because they do not want to overcrowd the site, because it truly is only a plaza.

Mr. Van De Wiele asked Mr. Palacios if the three parking lots to the east were owned by the same property owner. Mr. Palacios answered affirmatively. Mr. Van De Wiele asked if those parking lots were sufficient for the current use and anything planned for the future. Mr. Palacios answered affirmatively.

**Interested Parties:**

**Maria Barnes**, P. O. Box 4380, Tulsa, OK; stated she has worked in Kendall Whittier for over 30 years, and what the church is doing has been discussed for many years. The expansion of the church is good for the neighborhood and the neighbors and area businesses have no problem with the project.

**Gary Copper**, 209 South Gary Avenue, Tulsa, OK; stated he owns a business located at 2410 East Admiral Boulevard, Action Storage. He asked the Board to stop this project. There have been other Variances granted and what is happening is they are all coming to a point of critical mass and are causing problems. Admiral Boulevard is one way going toward the east, so people use the alley to commute and they are using his driveway as a city street. This traffic is tearing up the asphalt and is now gone uncovering a trench that PSO cut through the area to extend electrical service. The trench is getting deeper and to repair that trench would cost almost \$5,000. When the Library paved their parking lot the alley was re-asphalted thus raising the level of the alley, now when it rains it creates a "lake" in his drive. Because of this the alley is breaking apart and is now unsafe. Mr. Copper stated the use of the alley as a street and the use of his drive as a street causes concerns and creates a hardship for him.

Mr. Van De Wiele stated that, like it or not, an alley is a public thoroughfare; it is a dedicated alley. This issue has come up before regarding other alleyways in older parts of city; they are dedicated alleys or streets. The public has a right to driveway down the alley. The property owner has the right to seek to close the alley adjacent to his property.

Mr. Copper stated there is an issue with cars; the total number of cars may or may not increase but where the cars park will change and the times they are coming or going will change. The foot traffic will probably increase and that is a safety concern. Mr. Copper stated that he thinks the gazebo has been placed too close to the alley. The infrastructure with all the details need to be thought out.

**Rebuttal:**

**Brian Henley** came forward and stated the project does not propose to increase any vehicular parking, so there should not be any additional vehicles in the area or in the alley.

Ms. Back asked Mr. Henley to define "adoration chapel" because that is a very unique architectural term. Mr. Henley stated the chapel will be to honor a canonized priest that served the community. Ms. Back asked what the chapel will be used for. Mr. Henley stated that it will be used for prayer. Ms. Back asked how many people does the chapel seat. Mr. Henley stated that it will seat 48. Ms. Back asked how long the chapel would

be open to the public. Mr. Henley stated the chapel will not be open 24 hours and there has not been a final decision made on the exact hours.

Mr. Van De Wiele asked staff if all the infrastructure issues and traffic flow will be reviewed during the permitting process. Ms. Ulmer answered affirmatively.

**Comments and Questions:**

Ms. Back stated she knows the area very well and she understands the challenges the storage facility is having with their property. She does not have a challenge with the Special Exception to permit the religious assembly and she does not have a challenge with the Variance for the setback. This happens a lot with neighborhood churches because they do abut R Districts. The challenge she has the required parking Variance.

Mr. Van De Wiele agreed with Ms. Back on everything she stated except for the parking. He looks at this that the use of this property is at a different time than the main peak times. Church parking lots are some of those most unused pieces of real estate around. They are packed for about three or four hours a week then relatively empty. Mr. Van De Wiele stated the hardship would be the overall use of the property. It is a large property that has quite a bit of parking that is not used all the time. Not every building on the campus is used at the same time such as that it allows for an overlapping or shared parking. Regarding the traffic and safety issues, he believes that it is something that should be addressed, can be addressed and will be addressed as part of the permitting process. To Mr. Copper's point, all the property owners might want to take a look at having the City close the alley.

Mr. Flanagan does not have any issues with this request. He believes it is a good use of space for the area.

Ms. Ross agreed with all the previous statements made by the Board members.

**Board Action:**

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to permit a religious assembly in the RS-3 District (Section 5.020); Variance of the required 25-foot setback from an adjacent R District for Special Exception uses (Section 5.030); Variance of the required lot area for a religious assembly use in R Districts (Section 40.320-A); Variance of the required parking from 25 spaces to 0 spaces (Section 55.020), subject to conceptual plans 5.8 and 5.9 of the agenda packet. The Board finds the hardship to be the overlapping times of traffic between the school and the church. The Board finds that the requested 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 finds 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 23 BLK 5; LT 24 BLK 5; LT 22 BLK 5, EAST HIGHLAND ADDN RES B1, City of Tulsa, Tulsa County, State of Oklahoma**

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**NEW APPLICATIONS**

**22435—Kendall Baillie**

**Action Requested:**

Variance to permit a fence to be located within the planned right-of-way (Section 90.090-A). **LOCATION:** 6128 & 6130 West Charles Page Boulevard South (CD 1)

**Presentation:**

**Kendall Baillie**, 1606 East 17<sup>th</sup> Place, Tulsa, OK; stated she is representing her friend who owns two properties and he would like to install a fence around the properties. There is an existing fence that is deteriorated.

Mr. Van De Wiele asked Ms. Baillie if the new fence would be like what is on the property now. Ms. Baillie stated the existing fence is chain link and in the rear it is a wooden privacy fence. The front fence is four feet in height and the rear fence is six feet in height.

Ms. Ross asked Ms. Baillie if the existing fence was currently in the right-of-way. Ms. Baillie stated the new fence would be erected in the same place as the existing fence now.

Mr. Swiney stated that currently the fence is located in the planned right-of-way and in the future, it could be the actual right-of-way, in those cases he has seen removal agreements made a part of the condition of approval. Mr. Van De Wiele stated this issue came up about two months ago and the property was downtown, and he asked the same question. It was the difference between it being in the actual right-of-way which would require a removal agreement, but within the planned right-of-way it would not need a removal agreement, but if the right-of-way were widened the owner could be made to take down the fence. Mr. Swiney suggested that perhaps that could be made a part of the condition.

Mr. Foster stated the Code, by default, does not require it but it has been very often applied as a condition to an approval to avoid, in the future, any disruption of the project.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Variance** to permit a fence to be located within the planned right-of-way (Section 90.090-A), subject to conceptual plan 6.11 of the agenda packet. The Board has found the hardship to be replacing a dilapidated fence with a new chain link fence to replace the fence that is in the same general vicinity. It is known that the fence is in the City planned right-of-way and if Charles Page Boulevard is widened the fence may be removed and the property owner is knowledgeable of that fact. The Board finds 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 BLK 2; LT 9 BLK 2, LAWNWOOD ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**22436—A-Max Sign Company**

**Action Requested:**

Variance to permit a dynamic display sign to be located within 200 feet of an RS-3 District (Section 60.100-F). **LOCATION:** 5301 South Peoria Avenue East (CD 9)

**Presentation:**

**Lori Worthington**, A-Max Sign Company, 9520 East 55<sup>th</sup> Place, Tulsa, OK; stated this request is to allow a dynamic display sign at 53<sup>rd</sup> and Peoria.

Mr. Van De Wiele asked Ms. Worthington if she had a chance to visit with the neighbor located to the south. Ms. Worthington stated that house is boarded up.

Mr. Van De Wiele asked Ms. Worthington if the new sign was going to be erected in the same place as the old existing sign. Ms. Worthington stated the new sign will be erected on the existing pole.

Mr. Van De Wiele asked Ms. Worthington how tall the new sign will be compared to the building that is located on the lot. Ms. Worthington stated the sign is 21'-6" tall at the very top and the average building height is 18 feet. The dynamic display will be below the "Tire Express" making it about 16 feet tall.

Ms. Back asked Ms. Worthington if the sign face was the same size as the existing sign. Ms. Worthington stated that the face will be close to the same size.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to permit a dynamic display sign to be located within 200 feet of an RS-3 District (Section 60.100-F), subject to conceptual plans 7.13, 7.14, and 7.15 of the agenda packet. The Board finds the hardship to be that this is a commercial use lot and it is situated next to a residentially zoned lot that is on a major arterial in the City; finding

the situation of the building, the privacy fence, and the mature trees on the R zoned lot to be substantial screening. The new sign is to be installed on the same existing pole and will be close in size as the previous sign on the lot. The Board finds 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:

**N/2 N/2 NW SW NW LESS E265 & LESS N25 & W24.75 FOR ST SEC 31 19 13  
1.19AC, City of Tulsa, Tulsa County, State of Oklahoma**

**22437—AAB Engineering, LLC – Alan Betchan**

**Action Requested:**

Variance to reduce the minimum lot width from 60 feet to 52.5 feet to permit a lot split in an RS-3 District (Section 5.030). **LOCATION:** 1415 East 38<sup>th</sup> Street South (CD 9)

**Presentation:**

**Alan Betchan**, AAB Engineering, 200 North McKinley, Sand Springs, OK; stated this is a unique area and most of the lots do not conform to the RS-3 development pattern. Uniquely it is not just new construction that does not conform, it is older construction as you go farther into the neighborhood. The literal interpretation of the Code would most likely be ruled as spot zoning because it is not conforming to the zoning of the surrounding properties. The property is deeper than normal, 140 feet in depth, so, the lot is exceeding the minimum lot area for RS-3 even after the split. There is not an increase of density it is just doubling the number of units on the lot, and it will be tailored to the old configuration of what the lots were.

Ms. Ross asked Mr. Betchan about the split because on page 8.16 the split looks like the split goes over the house. Mr. Betchan stated the existing house will be razed and two different structures will be built.

Mr. Betchan stated the two lots immediately adjoining to the east have been split and new construction has been built on them. This is an area that is going through revitalization and this would be an area where you would want to see density increase. The only viable method to get to a conformity development pattern is a Variance.

**Interested Parties:**

**Peggy Caudle**, 1416-C East 38<sup>th</sup> Street, Tulsa, OK; stated she lives directly across the street from the subject property. Ms. Caudle stated that she has concerns about flooding, and with two new builds how much concrete will be there to increase the runoff. The condos that she lives in has water that comes half way up her car tire when there is a heavy rain. Ms. Caudle stated that she is not opposed to the lot split because the lot is a deep lot. Ms. Caudle is concerned about the applicant receiving permission today, then coming back to the Board for permission to build a larger wider house.

Mr. Van De Wiele stated that Brookside has water drainage issues, but water drainage issues are not the purview of this Board. It is part of the engineering package that Mr. Betchan or his client will have to go through before building.

**Rebuttal:**

**Alan Betchan** came forward and stated that technically he will be doubling the amount of open space required whenever the lot is split. This Board denied the request to reduce the open space when it was previously brought before the Board. This owner is aware of that and can conform to the open space requirements on the lot as proposed.

**Comments and Questions:**

Mr. Van De Wiele stated these lots were originally platted as 50 or 52-foot lots and over time some of them were bought as double lots and combined. A lot of this is returning to what the original plat looked like. This is in keeping with the neighborhood and he does not have an issue with this request.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Variance** to reduce the minimum lot width from 60 feet to 52.5 feet to permit a lot split in an RS-3 District (Section 5.030)m subject to conceptual plans 8.16, 8.17, 8.18 and 8.19 of the agenda packet. The Board finds the hardship to be that the lots in Brookside, per the original plat, were somewhere in the area of 50 or 52 feet wide, and this will basically be returning to the original plat layout. The Board finds 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 4, LEOKI PLACE, City of Tulsa, Tulsa County, State of Oklahoma**

**22438—David Van Dalsem**

**Action Requested:**

Variance to allow less than a 25-foot rear setback in an RS-2 District (Section 5.030-A). **LOCATION:** 2201 South St. Louis Street East **(CD 4)**

**Presentation:**

**Tom Neal**, 2502 East 11<sup>th</sup> Place, Tulsa, OK; stated the house is located in Terwilleger Heights and was built in 1939. The house sits on a trapezoidal shaped lot with exposure on two streets, both are non-arterial. The house is non-conforming, and the garage and quarters are located in the now required rear yard to about 190 square feet. The garage is too small to accommodate today's cars and they would like to have a larger one to park their cars in. They would like to transform the quarters into a ground floor master suite. The hardship is that there are two streets and unusually shaped lot.

**Interested Parties:**

**Jean Cullinai**, 1562 East 22<sup>nd</sup> Street, Tulsa, OK; stated she received a notice a week about this request and she has not had any time to study and measure the project. She is concerned about the limit of the height of the new area and is concerned about their air conditioning unit because she does not want it next to her house. Ms. Cullinai stated she has been encroached upon by three different properties because of Variances being granted. Ms. Cullinai stated she is concerned about her privacy while she is in her back yard, so she would like to know what kind of windows and how many windows are going to be installed. Ms. Cullinai stated she wants a guarantee that the builder will do what he says, and she would like more information. Every time something is built her yard is covered in more shade, so much so that she can no longer grow a garden.

**Rebuttal:**

**Tom Neal** came forward and stated the existing garage is about nine feet from what is assumed to be the property line because of the fence, and the new construction will go to five feet meeting the required zoning setback for the side yard. Mr. Neal stated he did not submit fully developed floor plans and elevations, but the intent is for the east side to have minimal openings of any kinds so Ms. Cullinai's privacy will be respected. There will be one door into the garage and the other opening will be a glass block or frosted glass window for a bathroom on the east wall. Placement of the air conditioning unit has not been discussed but Mr. Neal stated that he believes his clients are meaningful trying to address those concerns because they want to be good neighbors. Mr. Neal stated the height of the garage will have at least an eight-foot maybe nine-foot garage door making the garage about two feet higher to the plate line. The other intention is to make this all the same level and the current house is about 21" above grade. The house has a hip roof and that will be mimicked for the master suite one-story addition.

Mr. Flanagan asked Mr. Neal where the site plans that would be submitted to the permitting office are if this were approved. Mr. Neal stated that he did not want to spend time doing drawings that might not be approved. Mr. Flanagan stated that for him there are a lot of unknowns and a lot left to assume. Mr. Flanagan stated he is having difficulty seeing the scale of the project. Mr. Neal stated he understood. Mr. Flanagan asked Mr. Neal if he had the elevation plans. Mr. Neal stated that he did not because he had not done them as of yet, because if this request is turned down he did not want to charge his clients for plans that would not receive approval. Mr. Neal stated that what is seen now at the house will be similar to what it will be. The garage will be a 24 x 24 garage with the plate height about eight feet above grade. Everything will be proportionately a little taller.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Variance** to allow less than a 25-foot rear setback in an **RS-2** District (Section 5.030-A), subject to conceptual plan 9.18 of the agenda packet. The Board finds the hardship to be an odd shaped lot, also a corner lot fronting on two streets, and being a historical house in Tulsa the owners want to keep in character with the neighborhood. This approval is subject to the following conditions: one-story addition; one door opening and one frosted or glass block window on the east side; the roof plate height will be approximately ten feet; roof line will be approximately two feet taller than existing structure to accommodate for a new two-door garage; the HVAC mechanical structure unit is not allowed on the east side of the new structure; the design of the new structure will be in keeping with the character and nature of the existing house. The Board finds 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 5 BK 5, TERWILLEGGER HGTS, City of Tulsa, Tulsa County, State of Oklahoma**

**22439—Robert Darby**

**Action Requested:**

Special Exception to allow a fence to exceed 4 feet in height in the front street setback (Section 45.080-A); Variance of the minimum street setback requirement to permit an unenclosed accessory parking area (Table 55-4); Variance to allow a parking area to be located in the right-of-way/planned right-of-way (Section 90.090-A). **LOCATION:** 2121 East 30<sup>th</sup> Street South (CD 4)

**Presentation:**

**Robert Darby**, 2121 East 30<sup>th</sup> Street, Tulsa, OK; presented pictures before presenting his case to the Board. Mr. Darby stated the new cabana is under construction and previous to the cabana there is an existing five-foot wrought iron fence, and he wants to move that same fence closer to the curb. Mr. Darby stated that across the street there is a five-foot fence and it is closer to the curb than he proposes to place his fence. Mr. Darby stated that he hosts a lot of people at his house and the street becomes very clogged with parked cars because his neighbor also hosts a lot of people at their house, so he would like to have an inset parking area to help alleviate some of that parking problem. Mr. Darby stated that he spoke with the neighbor that had sent in an e-mail and the neighbor no longer has a problem with the request.

Mr. Van De Wiele asked Mr. Darby what material he would be using for the parking area. Mr. Darby stated that he would like the driveway to have the material that allows some grass to grow.



**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to allow a fence to exceed 4 feet in height in the front street setback (Section 45.080-A); Variance of the minimum street setback requirement to permit an unenclosed accessory parking area (Table 55-4); Variance to allow a parking area to be located in the right-of-way/planned right-of-way (Section 90.090-A), subject to conceptual plan 10.14. The Board finds the hardship to be the narrowness of the paved right-of-way. The believes this Variance will help relieve and reduce congestion on the street. The approval is subject to a removal agreement will be obtained and secured from the City of Tulsa for the encroachment into the existing and planned right-of-way. The Board finds that the requested 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 finds 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 6 & PRT LT 7 BEG NWC TH E88 S162.92 W95 N165.34 POB BLK 13, FOREST HILLS, City of Tulsa, Tulsa County, State of Oklahoma**

**22440—Jennifer McCarthy**

**Action Requested:**

Special Exception to permit a sign mounted onto a pedestrian bridge to be located in the right-of-way/planned right-of-way of South Main Street (Section 60.020-E).

**LOCATION:** 1101 South Main Street East (CD 4)

**Presentation:**

**Jennifer McCarthy**, 195 South 122<sup>nd</sup> East Avenue, Tulsa, OK; stated this request is for First United Methodist Church. They own two buildings on both corners and a skywalk. The church has purchased a vinyl perf that can be seen through and the church information will be on the vinyl. The vinyl will in the same location on both sides. Ms. McCarthy stated she has contacted the right-of-way department and started the process. The installation for the vinyl will be scheduled for a Saturday.

Mr. Van De Wiele asked Mr. Swiney if it is safe for the Board to assume there is a removal agreement already in place since this is a privately-owned sky bridge. Mr. Swiney stated there is a license agreement or an agreement of some kind or the church would not have been able to build the sky bridge. Mr. Van De Wiele asked Mr. Swiney if it was necessary to have another removal agreement for the sign. Mr. Swiney stated that he did not think so.

Mr. Van De Wiele asked Ms. McCarthy if the sign would be lit. Ms. McCarthy stated that it would not.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to permit a sign mounted onto a pedestrian bridge to be located in the right-of-way/planned right-of-way of South Main Street (Section 60.020-E), subject to conceptual plans 11.8, 11.9 and 11.10 of the agenda packet. The Board finds that the requested 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:

**ALL BLKS 1 & 2 FRIEND & GILLETTE ADD & PRT BLKS 195 & 202 & VAC ALLEYS & STREETS BEG NEC 50S LT 5 BLK 195 TH SE150 SE80.67 NEC W/2 LT 7 SLY140 S10 E25 S6 E25 24 NEC LT3 SLY90 NE100 SE50 SW410 S TO PT 10E SECR BLKS W130 N91.8 W30 N390 E30 NWC BLK 1 N6; ALL BLK 3 & VAC ALLEY BTW & VAC 11TH ST & PRT VAC MAIN ST BEG NEC BLK 3 TH W147.06 N40 E177.06 CL MAIN**

ST S390 W30 N350 POB,FRIEND & GILLETTE ADDN, TULSA-ORIGINAL TOWN,  
City of Tulsa, Tulsa County, State of Oklahoma

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**OTHER BUSINESS**

None.

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**NEW BUSINESS**

None.

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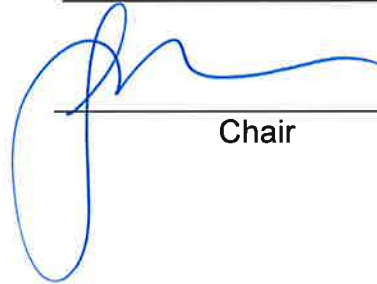
**BOARD MEMBER COMMENTS**

None.

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There being no further business, the meeting adjourned at 3:04 p.m.

Date approved: 5/22/18

  
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Chair