

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1217  
Tuesday, November 13, 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<br>Back, Vice Chair<br>Ross, Secretary<br>Bond<br>Radney |                       | Miller<br>Ulmer<br>Sparger<br>E. Smith | Blank, Legal          |

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on November 9, 2018, at 8:29 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Vice Chair Back called the meeting to order at 1:00 p.m. Ms. Back stated that Chairman Van De Wiele intends to attend today's hearing, but he is detained at a memorial service, so this meeting will start with a four-member board and will not be entertaining any requests for continuance, but the Board will consider having a case moved to the end agenda to be able to have the case heard by a five member board. No one requested to have their case moved to the end of the agenda.

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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 **ROSS**, the Board voted 4-0-0 (Back, Bond, Radney, Ross "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the **Minutes** of the October 23, 2018 Board of Adjustment meeting (No. 1216).

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**UNFINISHED BUSINESS**

**22528—Christopher Parle**

**Action Requested:**

Special Exception to exceed the allowable driveway width in the street right-of-way and in the street setback (Section 55.090-F3). **LOCATION:** 3318 South Jamestown East (CD 9)

**Presentation:**

Staff requests a continuance to the December 11, 2018 Board of Adjustment meeting.

**Interested Parties:**

**John Walker**, 4221 East 40<sup>th</sup> Place, Tulsa, OK; stated he owns the property next door to the subject property. He did not understand what was going on at the last meeting because he had called Code Enforcement to get something done about water being diverted onto his property, and he has had trouble with people driving through the parking area on the subject property.

Ms. Back asked Mr. Walker if the request for a continuance would allow him time to speak with his neighbor and get more information on the project. Mr. Walker stated that he has tried to speak with the property owner, and that is the reason he had to turn to Code Enforcement. Mr. Walker stated that at the last meeting he attempted to speak with the property owner in the hallway and he would not speak with him. Mr. Walker stated he is glad someone bought the subject property and is looking forward to someone improving the property, but he has trouble trying to protect his own property. Mr. Walker stated the Code Enforcement Officer stated that the subject property owner did not divert the water on purpose so there was nothing wrong.

Ms. Back asked Ms. Ulmer why there was a request for a continuance. Ms. Ulmer stated staff requested the continuance to be able to get more information from the City of Tulsa about whether this was a non-conforming use.

Ms. Back stated that staff has requested the continuance in order to get more information from the City, so the Board would be inclined to support the request. The case would be on the next agenda for the Board of Adjustment meeting on December 11<sup>th</sup>.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Back, Bond, Radney, Ross "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **CONTINUE** the request for a Special Exception to exceed the allowable driveway width in the street right-of-way and in the street setback (Section 55.090-F3) to the December 11, 2018 Board of Adjustment meeting; for the following property:

**N60 S180 E137.5, LT 23, ALBERT PIKE SUB, City of Tulsa, Tulsa County, State of Oklahoma**

**22515—Linda Rollins**

**Action Requested:**

Special Exception to permit a carport in the street setback and street yard (Sec. 90.090-C.1); Variance to permit a structure to be located within City of Tulsa street right-of-way/planned street right-of-way (Section 90.090-A). **LOCATION:** 903 South Urbana Avenue East (**CD 4**)

**Presentation:**

**Linda Rollins**, 903 South Urbana Avenue, Tulsa, OK; stated she would like to have a carport over her driveway. The carport would be 20'-0" x 20'-0". The original plan showed two support posts 1'-6" in the right-of-way with an overhang for a total of five feet in the right-of-way. The carport has now been shortened by 1'-6" which will move the two support posts out of the right-of-way. There would still be an overhang of 3'-6" in the right-of-way. Ms. Rollins stated that she has applied with the City of Tulsa for a removal agreement and that is process now. Ms. Rollins stated that a carport is not out of the ordinary for her area and she has provided pictures of 22 carports in a four-block radius.

**Interested Parties:**

**Travis Eslick**, 524 South Marion Avenue, Tulsa, OK; stated there are a lot of unpermitted carports in the neighborhood. The proposed carport would project almost to the street. This will set a bad precedent for other houses in the neighborhood.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Radney, Ross "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a Special Exception to permit a carport in the street setback and street yard (Section 90.090-C.1); Variance to permit a structure to be located within City of Tulsa street right-of-way/planned street right-of-way (Section 90.090-A), subject to conceptual plan 2.10 in the agenda packet. There are to be no posts in the setback; they're moved back per option two on page 2.8 of the agenda packet which allows for a 20'-0" x 18'-6" carport and there will be a 3'-6" overhang. The approval is subject to a license agreement with the City of Tulsa is granted to the applicant. The Board finds the hardship to be the size and location of the subject property. 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 18 BLK 1, RIDGELAWN, City of Tulsa, Tulsa County, State of Oklahoma**

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**NEW APPLICATIONS**

**22533—Tresa Camp**

**Action Requested:**

Special Exception to allow a manufactured housing unit on an RS-3 zoned lot; Special Exception to extend the time limit to allow a manufactured home on the site for more than 1 year (Section 5.020 & Section 40.210-A); Variance to allow a non-all-weather parking surface material (Section 55.090-F). **LOCATION:** 5473 North Peoria Avenue East **(CD 1)**

**Presentation:**

**Tresa Camp**, P. O. Box 33, Sand Springs, OK; stated she bought the property with the hopes of placing a 32'-0" x 80'-0" 2016 manufactured home that has five bedrooms and three and a half baths. She wants this for her children and herself, so they will feel more physically and emotionally stable. Ms. Camp likes the area and has been there in the day and in the night. She will fully fence a large portion of the lot because she has a special needs child. There will be a temporary gravel driveway until she can afford to lay down a permanent driveway.

Ms. Back asked Ms. Camp if she planned to fence in the back area of the yard. Ms. Camp stated that she has a dog that she is afraid may jump over the fence, so the plans

are to erect a six tall chain link fence which would cover the first third of the property, which is 2-3/4 acres. Ms. Back asked Ms. Camp if her plans were to have the fence on the front of the property. Ms. Camp answered affirmatively. Ms. Back stated there is no relief requested on this application for the fence height, and she advised Ms. Camp that there are fence guidelines in the Zoning Code, and that Ms. Camp should speak with INCOG staff regarding the fence.

Ms. Ross asked Ms. Camp if there was an existing fence on the property, because on page 4.12 there appears to be a fence. Ms. Camp stated that when she first contacted INCOG she told them her plans and they said nothing about limitations regarding anything. Ms. Ross asked Ms. Camp if she knew how tall her fence is. Ms. Camp stated that it is six foot.

Ms. Miller stated a six-foot fence is allowed on the sides that are not in the street setback. Ms. Miller stated the property is zoned RS-3 and is along an arterial street, so the street setback is 35 feet. Therefore, within the first 35 feet of the property from the property line, the fence can not be any higher than four feet per the Zoning Code.

Ms. Radney asked Ms. Camp how long of a period of time is she requesting beyond a year. Ms. Camp stated that she was told the manufacturing home could be there for ten years and then it would be revisited after the ten years.

**Mr. Van De Wiele entered the meeting at 1:28 P.M.**

Ms. Ross asked Ms. Camp if the manufactured home would be affixed; not on wheels. Ms. Camp answered affirmatively; Ms. Camp stated that her plans are to place it on cinder blocks.

**James Layman**, 7912 West 17<sup>th</sup> Street, Tulsa, OK; asked if the 35 feet regarding the fence started at the road or from the sidewalk. Ms. Miller stated it is from the property line, and the survey of the property would show that.

**Interested Parties:**

**Mary Odom**, 10914 North Sheridan, Tulsa, OK; stated she owns the property just north of the subject property. Both properties have been vacant for quite some time and the original houses have been removed. Tulsa is slowly but surely moving toward the subject property and ten years is too long to have a manufactured home on the property. Ms. Odom believes this will affect the property values in the area. There is an older well-established neighborhood south of the subject property and she thinks it will be a detriment to the property values if the manufactured home were to be there much longer than a year.

Ms. Back asked Ms. Odom if she could agree to five years, because Ms. Camp is going to great expense to place the manufactured home on the property and move in. Ms. Odom stated she could agree to five years, but three years would be better.

**Rebuttal:**

Ms. Back asked Ms. Camp to come back to the podium.

Ms. Back stated that the fence does not meet Code and would need to come down to four feet in height. In regard to the Variance request for the non-all-weather parking surface, the Board is not inclined to approve gravel surfaces within the City limits without a specified time limit; it is hard for Code Enforcement Officers to enforce once the Board has approved a request. Ms. Camp asked if she were to obtain finances within a year to either install concrete or asphalt on top of the gravel, would it be okay because the drive will only be 200 feet.

**Comments and Questions:**

Ms. Ross stated that she likes the idea of a five-year time limit on the manufactured home. She also likes the idea of allowing Ms. Camp to have one year to install concrete or asphalt for her driveway.

Ms. Radney agrees with Ms. Ross about the year for the gravel driveway. She is not so concerned about the five year or ten-year time limit because it is zoned residential.

Mr. Bond stated that he could support the ten-year request because the manufactured home will be affixed to the ground and it is a five-bedroom home.

Mr. Van De Wiele stated he understands both views, and he does not think he would go through the effort of a concrete or asphalt driveway if there were only four years left on the approval time limit. The Board has certainly approved ten years with it being a new home but does not have strong convictions about the five- or ten-year time limitation. He would not agree to an unlimited time on the gravel drive.

Ms. Back stated that she is not uncomfortable with the ten-year request because the manufactured home is a 2016 model. She does hear and understand what the neighbor is saying about property values in five or ten years, but that is in the future and no one knows what the economy will do or what development will do.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to allow a manufactured housing unit on an RS-3 zoned lot; **Special Exception** to extend the time limit to allow a manufactured home on the site for more than 1 year but not exceeding ten years (Section 5.020 & Section 40.210-A); **Variance** to allow a non-all-weather parking surface material (Section 55.090-F), subject to conceptual plans 4.10 and 4.11 in the agenda packet. The approval will have the following conditions: the manufactured home will have a time limit of ten years,

November 2028; the gravel driveway is to be limited to one year and then the driveway must come into conformity with City Code. The existing fence is to be removed or brought into compliance with the Zoning Code. 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 BLK 2, GRIMES HGTS, City of Tulsa, Tulsa County, State of Oklahoma**

**22527—Ron Barnes**

**Action Requested:**

Special Exception to allow a fence/wall to exceed 8 feet in height within the required building and street setbacks (Section 45.080-A). **LOCATION:** 2660 South Boston Avenue East **(CD 4)**

**Presentation:**

**Ron Barnes**, 2660 South Boston Avenue, Tulsa, OK; stated the subject property is two houses away from the Gathering Place. Mr. Barnes presented a picture of what the property looked like prior to the erection of the sound barrier wall. The outside of the wall is 7'-6" at its highest point and the inside of the wall is 8'-6" at its highest point. The Zoning Code allows for eight feet, but when the sound barrier was constructed it ended up being a little taller on the inside than the measurement on the outside. Primarily what the difference is when the cap was put on the cap is about three or four inches thick and the barrier picked up the few extra inches. The wrought iron fence was moved back to allow the City to take the land to change Riverside Drive. The height was affected by where it ended being on the property. In addition, the City raised the outside of the wall area when the sidewalk was installed, the street elevation was lifted,

and everyone thought the barrier would be eight feet exactly, but the street was raised higher than anticipated.

Mr. Van De Wiele asked Mr. Barnes how he came to have the notice of violation issued to him. Mr. Barnes stated that he wrote on the plan that the barrier would be eight feet because he measured it, but then he discovered it was off and the Code Enforcement said he had to come before the Board of Adjustment.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a fence/wall to exceed 8 feet in height within the required building and street setbacks (Section 45.080-A), subject to conceptual plans 5.26 and 5.27 in 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:

**BEG NEC BLK 17 TH S159.69 W120 N19.14 W336.53 NW143.83 E482.67 POB LESS  
BEG 112.45S NWC BLK 17 TH SE29.32 W0.85 NW29.16 POB BLK 17, RIVERSIDE  
DRIVE ADDN THIRD AMD, City of Tulsa, Tulsa County, State of Oklahoma**

**22532—Justin Pickard**

**Action Requested:**

Special Exception to allow a duplex in the RS-3 District (Table 5-2.5); Variance to reduce the required lot area and lot area per unit requirement; Variance to reduce the lot width requirement for a duplex use in the RS-3 District (Table 5-3); Variance of the required 25-foot setback from an adjacent R-District for special exception uses (Table 5-3). **LOCATION:** 3184 North Iroquois Avenue East **(CD 1)**

**Presentation:**

**Justin Pickard**, 3324 North Garrison Avenue, Tulsa, OK; stated he represents Crossover which is a non-profit community development organization that operates in the neighborhood. Crossover does different things in the neighborhood; family medical practice, health clinic, an after-school program at the elementary school, an all boy private school, a youth sports organization, and a non-profit development company that rehabs houses in the neighborhood. After World War II almost all the houses were 940 square feet, three-bedroom, one bath houses. There has been a few of the houses torn down over the years and the subject property had a house torn down about three years

ago. Crossover rehabs houses so there have been rehabs that kept the houses the same size, there have been houses that have had additions and there have been new houses built. Part of the mission is to have people move into North Tulsa, and the full-time staff already lives in North Tulsa or they are asked to move to North Tulsa as part of the mission. In this particular project they would like to have a two-flat so duplex is misleading because it is not split vertically but will be split horizontally. The lots in the neighborhood are small, and the proposed flat is being mirrored like the one shown on page 6.11. The wife of the principal of the all boy school is over the female internship program being started. One of the flats will be housing space for female interns for that program.

Ms. Ross asked Mr. Pickard who would be living in the other flat once it is built. Mr. Pickard stated it would be rented by the internship program.

Mr. Van De Wiele asked Mr. Pickard if the proposed flat would front Iroquois as all the other houses do. Mr. Pickard stated that the front door toward 32<sup>nd</sup>, and it is on the corner, so it would kind of front on both streets, but it will be oriented more toward Iroquois.

#### **Interested Parties:**

There were no interested parties present.

#### **Comments and Questions:**

Ms. Back stated that Crossover does great work in the community and she does not think they would do anything detrimental to the neighborhoods they are helping to rebuild.

Mr. Van De Wiele agreed. He would want to specify an upstairs/downstairs duplex because he thinks that supports the use.

#### **Board Action:**

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a duplex in the RS-3 District (Table 5-2.5); Variance to reduce the required lot area and lot area per unit requirement; Variance to reduce the lot width requirement for a duplex use in the RS-3 District (Table 5-3); Variance of the required 25-foot setback from an adjacent R-District for special exception uses (Table 5-3), subject to conceptual plan 6.7 in the agenda packet. The Board finds the hardship to be the small platted lots that predate the Zoning Code, and the current building pattern in the neighborhood. The upstairs/downstairs duplex use is a 2-flat style and is not a side by side layout. 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 1 BLK 5, HARTFORD HILLS ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**22535—Maureen Johnson**

**Action Requested:**

Special Exception to allow a fence to exceed 8 feet in height within the required building setbacks and exceed 4 feet in height within the required street setbacks (Section 45.080-A). **LOCATION:** 3151 East 38<sup>th</sup> Place South **(CD 9)**

**Ms. Ross recused and left the meeting at 2:03 P.M.**

**Presentation:**

**Maureen Johnson**, 3151 East 38<sup>th</sup> Place, Tulsa, OK; stated she purchased the property in September, and had not even moved in when she received a notice of violation. The fence was built by the previous owners sometime in the spring of 2018. Ms. Johnson stated she spoke with the neighbors who have property that touches the fence and two of them signed a letter stating they had no objections to the fence.

Mr. Van De Wiele asked Ms. Johnson if the neighbors that were supportive of her request lived across the street or side neighbors. Ms. Johnson stated that one of the neighbors lives directly to the side of the property and the other lives directly behind the

subject property. Mr. Van De Wiele asked Ms. Johnson if they were the neighbors to the north and to the east. Ms. Jonson answered affirmatively.

Mr. Van De Wiele asked Ms. Johnson how tall the fence is and where are the locations that it is over in height. Ms. Johnson stated that the majority of the fence is eight feet, but there is section on the west side and in the back where it reaches a height a little over nine feet.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **RADNEY**, the Board voted 4-0-1 (Back, Bond, Radney, Van De Wiele "aye"; no "nays"; Ross "abstaining"; none absent) to **APPROVE** the request for an Special Exception to allow a fence to exceed 8 feet in height within the required building setbacks and exceed 4 feet in height within the required street setbacks (Section 45.080-A), subject to conceptual plans 7.10, 7.11, 7.12, 7.13, 7.14, 7.15, 7.16, 7.17, and 7.18 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:

**LT 5 BK 29, RANCH ACRES B28-35, City of Tulsa, Tulsa County, State of Oklahoma**

**Ms. Ross re-entered the meeting at 2:09 P.M.**

**22536—Gerardo Campos**

**Action Requested:**

Special Exception to allow a commercial/commercial service/building service use in a CS District (Table 15-2); Variance of the dustless, all-weather surface requirement to permit gravel drive and parking area (Section 55.090-F2).

**LOCATION:** 13100 East 11<sup>th</sup> Street South (**CD 6**)

**Presentation:**

The applicant was not present. Mr. Van De Wiele moved this item to the end of the agenda to allow time for the applicant to arrive.

**Interested Parties:**

There were interested parties present.

**Comments and Questions:**

None.

**Board Action:**

No Board action required at this time; for the following property:

**N250 E/2 NW NW NW LESS N24.75 FOR ST SEC 9 19 14 1.71ACS, City of Tulsa, Tulsa County, State of Oklahoma**

**22537—Cliff Beam**

**Action Requested:**

Special Exception to allow a Commercial/Assembly & Entertainment/Outdoor Use in the CBD District (Table 15-2, Section 70.120). **LOCATION:** 304 East 2<sup>nd</sup> Street South **(CD 4)**

**Presentation:**

**Jeff Scott**, 401 South Boston, Suite 230, Tulsa, OK; stated he owns several pieces of property along 2<sup>nd</sup> Street between Cincinnati and Elgin on the north side of 2<sup>nd</sup> Street; he owns a parking lot on the southeast corner of 2<sup>nd</sup> and Detroit. It is that 75'-0" x 140'-0" parking lot that is the subject of this request. The request covers the entire piece of property, the only thing that will structurally change will be an 18'-0" x 18'-0" piece of the property on the southeast corner where there is currently a park bench, a sign and shrubbery. That layout for the corner was approved before he purchased the property, and it is part of the property but is owned by South Bridge Equities, LLC which is an entity that he owns. Mr. Scott presented a picture of his proposed layout for the corner; there would be stage that would be about five feet deep and six inches tall which would allow street performers to perform. The Tulsa Artery, next door to Yokozuna, will administer and make sure the regulations are followed. Tulsa Artery works with a new not-for-profit that is affiliated with GKFF and they will help promote local musicians. Mr. Scott stated that it is his intent that the stage will be exclusively used by local and area musicians. The area has no office buildings around the property and is surrounded mostly by restaurants.

Mr. Van De Wiele asked Mr. Scott if the restaurants are in favor of his request. Mr. Scott answered affirmatively; they all believe it will add a vibe to the area that is desired.

Ms. Ross asked Mr. Scott what the hours would be for the musicians to play on stage. Mr. Scott stated he does not think anyone would be on the stage before 10:00 A.M. and probably not be there after 10:00 P.M., but he is not sure. Mr. Scott stated that he hopes there would be musicians there two hours at a time. If there is no one scheduled to be on the stage it would be his intent to have a chain that would across the stage stating the area is "By Reservation Only" with a contact telephone number for Tulsa Little Jam.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Ms. Radney stated that her only concern is the noise levels.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to allow a Commercial/Assembly & Entertainment/Outdoor Use in the CBD District (Table 15-2, Section 70.120), subject to conceptual plan 9.11 of the agenda packet. The approval is to be limited to the area shown on Exhibit 9.11 of the agenda packet. Any amplified music would need to meet the City noise ordinance and/or permitting requirements. 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:

**N75 LT 8 BLK 108, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma**

**22538—AAB Engineering, LLC – CBC Builds, LLC**

**Action Requested:**

**Variance** to reduce the rear setback requirement in an RS-2 District to permit an existing structure (Table 5-3). **LOCATION:** 2824 East 25<sup>th</sup> Street South (**CD 4**)

**Presentation:**

**Alan Betchan**, 200 North McKinley, Sand Springs, OK; stated in 2017 AAB Engineering was approached by CBC Builds who was looking at purchasing a property to lot split on the southwest corner of 25<sup>th</sup> and Delaware. Having worked in the neighborhood CBC Builds was incredibly sensitive to the existing character of the neighborhood and the house that existed on the lot. After surveying the lot it was determined that the lot could meet the lot split requirements without demolishing the house, and split the lot to create the two lots. An application was presented to the Planning Commission in November, and the exhibits presented then are in the Board's agenda packet. One of the questions that came up in conjunction with this was that the lot didn't meet the rear yard setback on the east side. In discussing that, the west side is not the rear yard but in fact it is actually the south side and it was an existing nonconformance on the lot. The existing house faces north and addressed on the north and the front door faces north. That application was approved by the Planning Commission. The developer proceeded to invest in remodeling the house and placing it on the market. In the last few months there has been question about the validity of the lot split and the existing nonconformance on the south, and whether or not the lot split should have been granted. This tract was previously split and a house was built in 2002. When the lot split was approved there was not a garage on the south end of the property. Sometime

between the 2002 lot split there has been a building application that was made and withdrawn, then the garage was constructed.

Mr. Van De Wiele asked Mr. Betchan if he was saying the garage was built without a permit. Mr. Betchan answered affirmatively.

Mr. Betchan stated he is asking for relief from the rear yard setback. The intent of that is to demonstrate that the setback is the southline, and the structure that is there is an existing conforming structure.

Mr. Van De Wiele asked Mr. Betchan when the garage was built. Mr. Betchan stated that he believes the application for the building permit was in 2002 and it was withdrawn shortly thereafter. This is a piece that had there been an issue the house could have been razed and then two new construction houses could have been placed on them. However, we are at place that there is substantial investment in the structure and the razing is not an option any more and we have relied on the approval that was previously granted and the interpretation that it was an existing nonconformance on the lot.

Mr. Van De Wiele asked Mr. Betchan to explain the nonconformity. Mr. Betchan stated it is the encroachment of the rear yard. Mr. Van De Wiele asked Mr. Betchan if that was because it was assumed that 25<sup>th</sup> was the front. Mr. Betchan answered affirmatively.

Mr. Van De Wiele asked Mr. Betchan when the lot split application was filed and approved. Mr. Betchan stated that it was November 2017 for the east/west split, and there was a 2002 split that split Lot 2 on the south edge and created another parcel to the south. Originally, in 2002 Lots 1 and 2 were a single user with a detached garage; that split allowed Lot 2 to be split and a new house to be constructed to the south. That is all prior to the current owner purchasing the house.

Mr. Van De Wiele asked Ms. Miller how the lot was split without the issues being addressed. Ms. Miller stated that she does not know the details on that. Staff has discussed this and possibly staff was looking at it as though the rear yard was to the south. The 2017 lot split met a side setback, somewhere along the line with the nonconforming building without the permit the rear setback was lost.

Mr. Van De Wiele asked if there was any doubt in the 2017 split that this was a 25<sup>th</sup> Street lot and the rear was to the south; was that an issue at all? Ms. Miller stated she just got into the details in the recent past, but she thinks that's what the assumption was.

**Interested Parties:**

**Andrew Shank**, Eller & Detrich, 2727 East 21<sup>st</sup> Street, Suite 200, Tulsa, OK; stated that what was heard from the applicant is that this request for a Variance is based on a lawful nonconforming structure. Respectfully, the Code offers no such relief to this applicant. Mr. Shank quoted the Zoning Code for a lawful nonconforming structure. Mr. Shank stated that the lot and structure were absolutely conforming in 2002, before the

addition of the garage to the south. Even after the addition of the garage to the south the lot and structure were absolutely conforming with the Zoning Code because it had an appropriate western back yard and five foot setback to the south and the setback to the north was fine and a front yard to Delaware. All complied with the Code. The filing of the lot split in 2017 imposed the hardship by cutting off the rear yard to the west the applicant now has to come to the Board of Adjustment to seek relief to make it okay. But for that lot split filed by the very same applicant, not the predecessor, everything was legal about the tract. Mr. Shank stated that the predecessor, Mr. Benton, was given an approval with the contingent that prior to stamping the deed he had to provide proof that the accessory garage was removed. Page 10.24 shows that the landowner had a 28 foot yard to the south and 65 feet to the west so everything was completely legal. Page 10.22 shows a document that accompanied Mr. Benton's lot split application, and the last line of the second paragraph states "the main entry of the existing dwelling will be facing South Delaware Avenue", but that is a typo because it is Delaware Place. This was submitted in conjunction with that exhibit; the front door will be facing Delaware and the expansive rear yard will be to the west. After the lot split in 2017 there is a claim that for years and years and years the rear yard has been to the north. Legally that argument isn't available to them. This is important because this is a self-imposed hardship; the hardship cannot be self-imposed and this is absolutely self-imposed.

Mr. Van De Wiele stated that it sounds like the substance of Mr. Shanks argument is that this house fronts on Delaware, and the rear would be to the west instead of, as Mr. Betchan has suggested, that it fronts on 25<sup>th</sup> Street with the rear yard to the south. Mr. Van De Wiele asked Mr. Shank if that was the argument he was making. Mr. Shank answered affirmatively. Mr. Shank stated that it is based on a couple of things. It is based on the Zoning Code; there is no authority in the Code that any owner of a corner lot can choose an orientation of the front yard that results in a unconflicting lot. The authority states that unless expressly otherwise stated the owner of subject property may select which lot line is the front lot line on a corner lot; every lot created must comply with all applicable provisions of the Code. For this reason, in addition to the fact that the applicant's predecessor in title and records with INCOG and the Planning Commission, says that Delaware was chosen.

Mr. Van De Wiele stated that regardless of which argument is accurate, whether it fronts onto Delaware with the rear yard being to the west, or it fronts on to 25<sup>th</sup> Street with the rear yard to the south, it appears the City has already approved a five foot rear yard by means of the lot split in 2017. Mr. Van De Wiele asked Mr. Shank how the Board is to get around that. Mr. Shank stated that he does not believe the lot split was legal. Subdivision regulations in effect at the time state in order to be a consent agenda lot split item, which it was, and why that is important is that notice is not given to the neighbors, it is a routine approval. The Planning Commission relies on staff and says these are routine in nature we approve. Somehow the lot split was placed on the consent agenda. Mr. Shank does not feel that the lot split was legal.

Ms. Miller stated that in the Subdivision Regulations the setback requirements cannot be varied or modify those requirements. A consent item or not a consent item, it would have just had to be a companion item through the Board of Adjustment to fix the setback requirement before the lot split would have happened. That was ideally the situation, but it was not looked at the way it is being looked at today.

Mr. Shank stated that in his reading of the subdivision regulations, it is said if there are going to be splits that don't comply with the Code they cannot be processed without full and clear language.

Mr. Van De Wiele asked Mr. Shank what property owner or owners is he representing. Mr. Shank stated he represents the Wilson family, who is one of the most impacted families because they are immediately to the south. The rear yard that was split off abuts the Wilson property. Mr. Van De Wiele asked Mr. Shank if he knew the address of his client's property. Mr. Shank stated that it is 2518 South Delaware Place.

Ms. Radney asked Mr. Shank which of the lot split is he saying is illegal. Mr. Shank stated that it is the 2017 lot split. Ms. Radney asked Mr. Shank if that is the one going east/west to create parcels 1 and 2. Mr. Shank answered affirmatively. Ms. Radney asked Mr. Shank if he had any complaint about the lot split to the south. Mr. Shank stated that in 2002 lot split resulted in lawful lot areas with a lawful structure, and it had more than enough rear and side yard in whichever direction one would have chosen. It was not until 2017 that the problems arose.

Ms. Radney asked Mr. Shank how the old is the existing structure on Tract B. Mr. Shank stated that it was constructed in 2007. Ms. Radney asked if that was before or after the garage was added. Mr. Shank stated that it is on separate property, but it looks like the garage was added on to the subject property sometime in 2002 or 2003 looking at the aerial maps on record with INCOG. The garage was not there in 2002 when the aerial photo was taken and in 2004 the garage is there when the aerial photo is taken.

Mr. Bond asked Mr. Shank what authority he thinks the Board has to make that declaration, because the only actions the Board reviews are that which the Board has been granted specific jurisdiction to do so. Mr. Shank stated that he not asking the Board to make any determination that the City has done anything improper. The problem was created by the lot split which was done by the same applicant that is seeking a Variance for the rear yard. He is asking for the Board to deny the request.

**Patrick Wilson**, 2518 South Delaware Place, Tulsa, OK; stated the property under discussion is south of the existing house. He purchased the house in the latter part of 2007; it was brand new house at that time. Since that time he has constructed a pool, an outdoor kitchen area and a cabana for entertainment for the family. With the proposed plat change it will change the whole atmosphere of his property. It will hurt the property value; it will take away any privacy that he might have because with the size of this requested it will have to be multi-story and be looking right into his pool area

and into the back of his house. The house next door, in question, the garage was built at the time he moved in.

Mr. Van De Wiele asked Mr. Betchan to come forward. Mr. Van De Wiele asked Mr. Betchan if he was asking to continue the five foot setback onto Tract A1. Mr. Betchan stated that the only thing he is requesting is a Variance on A2 for the structure as it is constructed today in the rear yard. So any structure built on A1 would conform to the Zoning Code which would have a 25 foot rear yard.

**James Howard**, 2526 South Delaware Place, Tulsa, OK; stated he lives south of the Wilsons. His concern is primarily with environmental and runoff issues that will be experienced with any building on Tract A1, because the intent of the applicant is to build on Tract A1. The very creative lot split of 2017 actually hides the front door of the existing structure from 25<sup>th</sup> Street. There is a gradient in the topography in this particular neighborhood and it is about 1.5 degrees to the west. So anything on the lots to the west and lots to the south get natural runoff, but as the grass and soil is replaced by concrete this will enhance and speed up runoff to the lots to the west on Delaware Avenue and to the lots to the south on Delaware Place. All the lots in the neighborhood are rectangular, and it is a very creative way to get the necessary footage but he does not see how the 5,000 square foot of open space that is required in this neighborhood. The residents never heard about the 2017 lot split; it was done without any knowledge by any of the neighborhood residents.

**Jim Love**, 2821 East 25<sup>th</sup> Street, Tulsa, OK; stated he lives immediately north of the subject property. Mr. Love stated he is an attorney but does not handle real estate issues, but he thinks he understands what is going on in this case. It appears that the proposed lot split is itself self inflicted which requires a Variance to fix. It is the lot split that is the problem. He heard that the new owners were deceived about exactly where their back yard is and where their front yard is. Any of that could have been investigated. Any of this investigatable, understandable, and to the extent that the owner wanted to raze the existing house and build two new houses, Mr. Love thinks that owner would want to investigate that before purchasing the property if he had plans for a lot split. Mr. Love stated that it seems to him that the Tulsa Zoning Code does not allow the Variance as it is self inflicted. Before the lot split the house was legal and conformed to the Zoning Code that Mr. Shank referred to. Mr. Love stated the proposed lot split requires a profound Variance from the Zoning Code. If the lot split is permitted there would be no 25-foot setback from the existing structure. The applicant is simply trying to sell the back yard. It is not legal. Bryn Mawr is an established single family dwelling neighborhood which to his understanding requires clear and objective setbacks, heights, and other development standards. The proposed Variance deviates from the standards and not in keeping with the long standing established character of this single family dwelling neighborhood. When he purchased his house he thought he could count on relatively stable single family dwelling nature of the neighborhood. Mr. Love stated he has not heard any argument, even today, that justifies a Variance.

Ms. Radney asked Mr. Love when his house was built. Mr. Love stated that it is a 12 or 13 year old house and he has lived in it for six years.

Mr. Van De Wiele informed Mr. Love that it appears, in looking at the surrounding property history, that his lot and the house directly to the east of the Love residence were very well created with this exact same situation. Mr. Love stated that he does not agree; to his knowledge there was no Variance needed. Mr. Van De Wiele stated this Board is not here to consider a lot split because it has already been approved. Mr. Love stated that he understands that.

**Nicole Bryant**, 2347 South Delaware Avenue, Tulsa, OK; stated she lives directly west of the Love's house. Her house was built in 1955 and it is one of the original houses in the neighborhood. This proposed lot split looks jakey. It is cutting off the yard. It will put a monstrosity on a tiny lot and she looks at it from the standpoint that it is not maintaining the integrity of Bryn Mawr to do this, in addition to the issues regarding the Variance that would be required. She asks that the request not be allowed to maintain the integrity of Bryn Mawr which is being lost to a lot of developers.

**Tom Kirkpatrick**, 2541 South Delaware Place, Tulsa, OK; stated he lives down the street to the south, and he has lived there about ten years. He does not reside in the house. He had the original house razed and planned on building his retirement house on his lot. He asks the Board to deny the Variance because it does not comply with the continuity of the neighborhood. Mr. Kirkpatrick stated he wants to retire in the neighborhood.

Mr. Van De Wiele stated that to deny the Variance would possibly have the impact of having the applicant raze the garage. Mr. Van De Wiele asked Mr. Kirkpatrick if that was the remedy he is seeking from the Board? What the Board is being asked today, apparently to the subject house that is addressed and apparently legally faced off 25<sup>th</sup> Street, is approve the as built constructed nature of this garage being five feet off the south property line. The applicant is wanting a Variance from the rear yard setback requirement. It has nothing to do with the open area to the west of the subject property. If the Board were to deny the Variance means that 20 feet of the existing garage would be in a required rear yard setback, and under City Code would have to be removed and that is what is being asked of the Board. Mr. Kirkpatrick stated that is exactly right. Mr. Van De Wiele asked Mr. Kirkpatrick if that is what he is asking even though the garage has been in existence for 16 years. Mr. Kirkpatrick answered affirmatively.

**Beverly Sharpe**, 2526 South Evanston, Tulsa, OK; stated she lives one block away from the subject property. Ms. Sharpe stated that she agrees with everything that has been said. Ms. Sharpe stated that there is an argument where the front of the house is located, but she thought that was decided by the Post Office or the Tax Assessor, the mailbox is located on the east side of the house which would eliminate all this problem because that becomes the entrance to the property. Mr. Van De Wiele stated that the subject property has been addressed and faced on 25<sup>th</sup> Street for as long as the documents he has in front of them. Ms. Sharpe stated that side is never used; a person

cannot even see the front entrance when going down 25<sup>th</sup> Street. She agrees this is a self-imposed problem. The home owner did not do their due diligence before they built, so now the neighbors are being asked to have a sympathy vote for them or have a strong arm. It does not seem like anyone is in a good position. The biggest concern is what will happen to the peculiar new lot that has been created since it has been divided down. A big concern for the neighborhood is that the neighborhood is being whittled down. The real attraction to the neighborhood is the location and the size of the lots. The character of the neighborhood is being lost. The original lot has been cut in half and had another house erected on it, and now the property owner is looking to chop down what is left. Ms. Sharpe stated the neighborhood wants to live there and does want it to be somebody else's investment.

Mr. Van De Wiele asked Ms. Sharpe if she thinks the garage is out of character when she sees it driving down the street. Ms. Sharpe stated the potential for what is going on in the neighborhood is huge, and the residents are concerned about what is going to happen next. The only thing that can come of this Variance is the removal of the garage or that it continues as is.

Mr. Van De Wiele agreed with Ms. Sharpe. Mr. Van De Wiele stated the Board either grants the Variance and the garage stays, or the Board denies the Variance and the applicant goes through the City process and Mr. Betchan's client would financially be forced into suing the City to overturn this Board's decision. The Board cannot deny the Variance and leave the garage in place. The only way for the garage to stay is for there to be a Variance, either through this Board or through Tulsa County District Court.

**Andrew Shank** came forward and stated that it is only by this applicant's actions in conjunction with the lot split that it has been thrust into a required rear yard. That's the essence of most of the neighbor's concerns. It has been heard the applicant say the word "investment" four times; invested in the lot, invested in rebuilding, etc. The Oklahoma Supreme Court is crystal clear, financial hardships are not available to support relief for a Variance. Is this one of those situations where it is a tough situation? Absolutely, but that is life in the big city. You have to comply with the Zoning Code. People come before the Board with a request for a Variance that they themselves created by splitting the lot. In denying the Variance, upholding the law doesn't resolve in chopping the garage down. What it will very likely result in is a combination of the lot before the Planning Commission. Denial does not mean the dozer is coming out.

Mr. Van De Wiele stated that if the lot split stands, that garage cannot be there if the Board denies the Variance. Mr. Shank agreed and stated that it is absolutely within the applicant's power to combine and walk away from the plan.

Mr. Shank stated that the only rear yard Variances that were granted were to allow for accessory garages. No one chopped their back yard off to build another house. All of those cases are distinguishable. Lot splits have occurred on some of the larger lots in old neighborhoods like this, and houses that comply with the bulk and area Code are

allowed by right. That is not this case. The hardship is self imposed. Mr. Shank asked the Board respectfully to deny the Variance.

**Rebuttal:**

**Alan Betchan** came forward and stated this is a very interesting set up and one that he has had a lot of consternation over after the fact. There in lies the problem for his client. They submitted an application, they went through the process, they received an approval. The Planning Commission voted to approve it. It was clearly dimensioned what the applicant was applying for. This exhibit was in the application that was made. To argue that the game is suddenly being changed after the fact, this is the same thing that was submitted originally. It feels a little like no good deed goes unpunished in that the whole idea of presenting this lot split configuration this way was an effort to save the existing structure and maintain the character of the neighborhood. The applicant could have razed the structure and built two houses like was done across both sides of the street, the north and the east. To argue that it is self imposed because a lot split was applied for is false. The application was made saying this is the opinion about the rear yard, and staff and Planning Commission agreed to that. Mr. Betchan stated that he has made no pretense that this is a legally non-conforming structure; it was built without permits. It is a non-conforming structure and we are asking for relief from the rear yard to bring the house that has set there for 16 years in this state and allow it to stay as it sits today. That is the application before the Board. There has been a lot of discussion about the lot split and the character of the neighborhood and that is really not in essence a part of this application. The truth is that is something that was considered by the Planning Commission and the approval of that application; that was a year ago.

Mr. Van De Wiele asked Mr. Betchan how long his client has owned the subject house. Mr. Betchan stated that he closed on the house shortly before the application was made for the lot split; about a year. Mr. Van De Wiele asked Mr. Betchan if his client built the garage. Mr. Betchan stated that he did not.

Mr. Betchan stated that his client understood that there was a rear yard encroachment and he made an application; that was the pretense for the application for the lot split.

Ms. Radney asked Mr. Betchan what was designated as the rear yard at that time. Mr. Betchan stated the south end of the property.

Ms. Back asked Mr. Betchan why that did not come before the Board of Adjustment at that time. Mr. Betchan stated that he was not instructed that it was necessary. Ms. Back questioned that, because Mr. Betchan comes before the Board all the time knowing that if there is an encroachment in the setback that relief is needed. Mr. Betchan stated that he went in for a lot split and he did not delve into anything else beyond an existing non-conformance. The rest of the tract was not run for an existing non-conformance. Now a year later, there is discussion about whether it was a legal lot split so we are trying to clarify what the intent of the original lot split was when it brought in.

Ms. Ross asked Mr. Betchan if his client knew there had been no permit for the garage when they applied for lot split. Mr. Betchan stated that they did not. Ms. Ross asked Mr. Betchan when his client found out about the garage. Mr. Betchan stated that it was in the process during the last couple of months when there was an evaluation of how the lot split was processed. There has been a great deal of fact finding that has happened in the last couple of months that predicated his client coming before the Board. Ms. Ross asked Mr. Betchan if his client also owns Tract A1. Mr. Betchan answered affirmatively.

**Comments and Questions:**

Mr. Van De Wiele stated that he is not inclined to allow a Planning Commission issue to become a Board of Adjustment problem. If there is an issue with the lot split this is not the venue to address that. The Board is being asked to grant a singular Variance to allow the existing structure to continue where it is. The one thing that does seem odd is the 2002 lot split seems to at least hint toward a reorientation toward Delaware Place. He does not see where that ever happened. This is certainly a strange situation. If there are issues that the Board needs to deal with prior to making a decision he is fine with that as well, and asked Ms. Blank for advice.

Ms. Blank stated that the Board always has an option to continue the case. The Board has to live with the agenda before them today.

Mr. Van De Wiele stated he is not comfortable giving a decision today. There are some things that need to be clarified before he would render an opinion or decision on this case.

Ms. Back agreed with Mr. Van De Wiele.

Mr. Bond stated that this has happened; the lot split was given by the City and if the lot split were before us today he would never vote for this but it was given. He does not know that any background information on how this occurred would change his vote. The Board has not authority to overrule a lot split that has been granted. What occurred has occurred and he does not see what information could be provided to change his vote.

Ms. Ross stated that she would like to know about how the decision was made because it is very odd, and she knows that is not before the Board, but to better understand the history would help. With the lot split being there it does impact her decision. If the lot split were not there her decision would be different. The lot split does matter and it would be beneficial to understand more of the history of how it occurred.

Ms. Miller stated that staff has laid out all the information and the process that the property went through, there is really nothing more. Ms. Miller feels that no stone was left unturned in what staff found when the research was done on the property.

Mr. Van De Wiele asked where the rear yard is located on Tract A2. Ms. Miller stated that is the issue. She thinks when the application for the lot split in 2017 was taken it was assumed that the rear yard was on the south side and there was a legal non-conforming use. Staff did not look at the building permit but did dig into it when discussion with Mr. Shank and Mr. Betchan took place a few months ago. The assumption was that the five foot setback on the west side was the side setback.

Mr. Van De Wiele asked Ms. Miller if a lot split application kicked this out of the legal non-conforming status? Does a lack of a permit have any thing to do with that? Ms. Miller stated typically staff will look at an application in that way.

Ms. Ross stated that this appears to be self-imposed because they did not have to apply for a lot split. If the owner had not applied for a lot split and it was all still Tract A1 and Tract A2, or one large tract, she would gladly approve a Variance for the garage. Considering that the owner did a lot split and now they ask for a Variance on an unpermitted garage, it does not fit into the neighborhood, she cannot support this request. The solution for her, for this owner, is to make the property all one lot again.

Ms. Back stated that the additional argument is that the current owner did not build the garage, and the Board is here to only hear the presentation for Tract A2.

Mr. Van De Wiele stated that the neighborhood argument is that the rear yard is to the west.

Mr. Bond stated the Board does not have the ability to change the lot split. Because it was granted, because this was a non-conforming structure that wasn't built by the present owner, that is pretty solid. And as far as the plight of the neighbors he understands that because he would be upset as well. The problem is that he cannot vote to undo a lot split. He cannot vote based on the idea that there are only two options, raze the garage or go back and undo a lot split that was granted by the City of Tulsa.

Ms. Radney stated that either outcome is still a hardship.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 2-2-1 (Bond, Radney, "aye"; Back, Ross "nays"; Van De Wiele "abstaining"; none absent) to **APPROVE** the request for a Variance to reduce the rear setback requirement in an RS-2 District to permit an existing structure (Table 5-3), subject to "as built" as shown page 10.55 of the agenda packet. This motion pertains only to Tract A2. The Board finds the hardship to be the presently plotted topographical layout of the subject property. 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 1 & N25 LT 2 LESS BEG NEC LT 1 TH W TO NWC S12.2 E TO PT ON EL LT 1 N3.9 POB BLK 8,BRYN-MAWR, City of Tulsa, Tulsa County, State of Oklahoma**

**MOTION FAILED**

On **MOTION** of **ROSS**, the Board voted 2-3-0 (Back, Ross "aye"; Bond, Radney, Van De Wiele "nays"; no "abstentions"; none absent) to **DENY** the request for a Variance to reduce the rear setback requirement in an RS-2 District to permit an existing structure (Table 5-3) for Tract A2; for the following property:

**LT 1 & N25 LT 2 LESS BEG NEC LT 1 TH W TO NWC S12.2 E TO PT ON EL LT 1 N3.9 POB BLK 8,BRYN-MAWR, City of Tulsa, Tulsa County, State of Oklahoma**

**MOTION FAILED**

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Variance to reduce the rear setback requirement in an RS-2 District to permit an existing structure (Table 5-3) to the December 11, 2018 Board of Adjustment meeting; for the following property:

**LT 1 & N25 LT 2 LESS BEG NEC LT 1 TH W TO NWC S12.2 E TO PT ON EL LT 1 N3.9 POB BLK 8,BRYN-MAWR, City of Tulsa, Tulsa County, State of Oklahoma**

**22539—Wallace Engineering – Mike Thedford**

**Action Requested:**

Special Exception to permit an outdoor assembly & entertainment use; Special Exception to permit a hotel; Special Exception to permit a bar and brewpub in an IM District (Table 15-2); Variance to reduce the required number of parking spaces (Section 55.020, Table 55-1). **LOCATION:** SW/c of East Independence Street North & North Lansing Avenue East (CD 1)

**Presentation:**

**Mike Thedford**, Wallace Engineering, 200 Matthew Brady Street, Tulsa, OK; stated this is the former Evans Fin Tube location and it is an overall 22-acre site. Phase I will develop 14 acres on the northern portion of the site. The existing structure to the south is a historic structure which really affects the overall site development and parking. Initially Phase I will be the BMX headquarters on 14 acres. There will be parking on the western portion, the BMX facility will be on the east portion, and a plaza to the south. Detention area will be to the north and the remainder of the property will be developed at a later date. There is an RFP that will come out later this year for the southern portion of the subject property. The property will be platted on December 6<sup>th</sup>. Currently there are 294 parking spaces provided for the property per the use categories that are being projected there is a requirement of 542 parking spaces. There is a parking agreement with OSU Tulsa that BMX secured just prior to this meeting; there is a memorandum of understanding (MOU) signed. The subject property is very close to the CBD which does not have parking requirements on site.

Mr. Van De Wiele asked Mr. Thedford how people would get to BMX from OSU without crossing the railroad tracks. Mr. Thedford stated a person would have to cross the tracks, but they will be on a planned shuttle.

Mr. Van De Wiele asked Mr. Thedford if a copy of the MOU and the final parking agreement to INCOG. Mr. Thedford answered affirmatively.

**Interested Parties:**

**Donna Jackson**, 1534 North Cheyenne, Tulsa, OK; asked if the property was under contract. Mr. Van De Wiele answered affirmatively. Ms. Jackson asked if there was going to be a historical connection to the Greenwood massacre that happened where a lot of people lost their lives, because this is on the property where the massacre occurred. If there isn't one can there be one?

**Rebuttal:**

**Mike Thedford** came forward and stated that currently the City of Tulsa owns the property and he believes it came through Tulsa Development Authority (TDA) and transferred to the City of Tulsa. The property is assemblage of tracts and as far any future plans for a memorial could be entertained.

Mr. Van De Wiele stated that assuming the RFPs would be reviewed through the City, who would be the appropriate person at the City to have Ms. Jackson speak to. Mr. Thedford stated he would get her a name.

Mr. Van De Wiele asked for a hardship for the parking request. Mr. Thedford stated the southern building is Evans and is to remain because it is on the national register and is to be preserved. It is a separate use and will be at RFP for numerous items. It is expected that there will be some cross parking and shared parking, but it is not known what it will look like at this point. As the property is platted a lot of the easements will be cleaned up, right-of-way, the separate lot lines, etc. It will be treated as one site. As far as the hardship, the requirement that relates to the seating which bumps the requirement to over 500 spaces, the space will be used for three or four events a year.

Ms. Back asked how many large at-capacity events will be held every year. Mr. Thedford stated there would be three or four.

**Rob Gardenhire**, 2971 East 56<sup>th</sup> Place, Tulsa, OK; stated there will be three or four three-day events a year, and there will be some two-day events in the year. All of that is outlined in the MOU with OSU; they are aware of these events and there is a general understanding of communicating when the events will be held. They will also be on the calendar for next year and every year. This will be operated just like a local track in Sand Springs, so there would be practice on Tuesday, racing on Friday and Sunday. There would be 100 to 150 riders at those events so the parking spaces should cover the requirements for the normal operations of field trips, private practice sessions, etc. When there are larger events, like the Sooner Nationals, that would be moved to the subject facility. For that there is racing a half day on Friday, a full day on Saturday, and 7:00 A.M. to 2:00 P.M. on Sunday. The smaller races are half a day Friday and all-day Saturday, or all-day Saturday and half a day Sunday.

Ms. Radney asked Mr. Gardenhire what he expects his overflow parking needs to be. Mr. Gardenhire stated that it would be 250 to 300 for cars only. Ms. Radney asked if the MOU also included some kind of transportation from the lot to the subject property. Mr. Gardenhire stated that is not specified and that would be something that would have to be worked out.

Ms. Back stated this is a great project for Tulsa, and the seating requirement is based on national type three-day events with only three or four events per year; the normal operations will not max out the parking.

Mr. Bond encouraged the applicant to have a well detailed plan for the shuttle parking because the other large project in Tulsa utilizes shuttle parking and that isn't working out too well. People do not want to sit on a bus to ride from and to a parking spot to attend an event.

Ms. Radney stated there were no remarks about the hotel and the brew pub and she would like to hear about that. Mr. Van De Wiele stated that his understanding is that this is a request to allow that use in the future in the IM District.

Mr. Mike Thedford came forward and stated that the northern portion of the site is the outdoor assembly which will be the BMX facility, but what they are trying to do is get ahead of the game and have flexibility for the RFP that is going out for the lodging.

**Nick Doctor**, 175 East 2<sup>nd</sup> Street, Tulsa, OK; stated that a lot of this is being based on two key conditions. First is the historic rehabilitation of the Evans building that is on the southern end of the site; rehabbing the building is a requirement of the RFP. Secondly, is a possible built out of the remainder of that portion either within the same RFP or with a second RFP if necessary. The request for the hotel and the brew pub is largely framed around the requests for the site that came under Community Heritage Neighborhood Plan and the Small Area Plan that was done that calls for it to be more of a community gathering place, and it calls for a hotel to be one of the possible uses. So, what the applicant wanted to do was outline the site from the land use perspective with as many of the conditions already cleared so the committee and the developer has the opportunity to come in and do that by right based on the Board of Adjustment's actions. The mechanisms of the RFP allow for this to be one proposal if that what makes the most financial sense to the developer, but if the developer just wanted to develop the Evans building it allows for that to happen as well. It allows for a little bit of flexibility because no one is sure what the dynamics of the market are going to be, what sales prices will look like, and what uses the developer is going to be able to bring to the historic rehabilitation.

Mr. Van De Wiele asked Mr. Doctor if the Board were to limit the uses to a particular portion, the parcel identifiers as shown on page 11.12 are likely less important than linking it to the site shown on page 11.11. Mr. Van De Wiele stated that what he thinks he has heard was the outdoor assembly and entertainment on the area north of the drive, and the hotel/bar/brew pub will be limited to the area south of the drive. Mr. Doctor agreed and stated if the Board felt the need to geographically describe the area.

Ms. Radney stated that her concerns are that there are a number of stake holders that would be interested in the historical aspect of the southern part of the parcel, and not having an opportunity to hear from them she would be reluctant to agree to all of the requests in terms of the Special Exception except for those that apply to the BMX portion that has been presented today.

Mr. Doctor stated the Unity Heritage Master Plan, or the Small Area Plan, was finalized in 2016, and that is the one that specifically speaks to a hotel being a possible use on this site, and it speaks to restaurants and entertainment venues being a part of this as well and that is where the two requests are specifically coming from. The RFP that has been developed so far has worked with several entities to make sure that the plan is in line with their expectations and hopes for the site, as well as, the cultural center and other stake holders. Ms. Radney stated she is still reluctant, and she agrees that it is a

lot of work and there has been a lot of cooperation across different stakeholders but that is not part of this parcel today.

Mr. Van De Wiele suggested limiting the uses but also overlay that with the requirement that the development be in compliance with the Unity Heritage Small Area Plan, is that something the Board can do and give enough definitiveness to approve something down the road? Ms. Miller stated the staff report calls out the land use and the land uses were changed in the Unity Heritage Small Area Plan and reflected in the Comprehensive Plan. There is a good possibility that this was amended to a regional center land use designation during the Unity Heritage plan process. This definitely reflects the lodging and the things that will draw people to the site, so this is in conformance that. Ms. Miller stated that it seems like it would not make a lot of sense to have a motion that it be consistent with that small area plan because that is not something that the permit office will pull and look at, but something that the Board has in front of them as part of the staff report that ties it back to the plan is this land use designation.

Ms. Radney stated the plan is just a recommendation. Ms. Miller stated that it is a policy document, and the land use designation is what came out of the discussion on land use. Ms. Radney stated she is still not there because a Special Exception is in perpetuity, and without actually having an opportunity to review the plan she is a no on that portion of it. She understands the use for the BMX center but not for the southern portion of the property.

Mr. Van De Wiele asked Mr. Doctor to explain the RFP process. Mr. Doctor stated that ultimately it is a decision that resides with the Mayor's office, but the decision making process is one that tends to be a very public one. Mr. Doctor stated that from his side he would prefer to have the Special Exceptions to allow the ease of knowing that those are allowed by right to go with developers, but if that is a key sticking point for Commissioner Radney we will be happy to come back before the Board if we need to. Ms. Radney stated that it is a key sticking point for her, but she also thinks in the interest of transparency if some of the stakeholders were here today to also concur with Mr. Doctor, she would feel a lot better about it but with them not being here she would appreciate those not being before the Board today.

Mr. Bond stated that he can think of a couple of stakeholders that he really wishes were here today. The BMX project is a win for the City and it is a great project. The ground this is located on should be treated with reverence and he would like to hear from some of the stakeholders. This is land where people lived, worked and killed so he would like to hear from the community.

Mr. Doctor stated that he will formally withdraw the Special Exceptions for the hotel and the Special Exception for bar and brewpub, and they will be brought back at the appropriate time.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit an outdoor assembly & entertainment use; Variance to reduce the required number of parking spaces (Section 55.020, Table 55-1), subject to conceptual plan on page 11.11 of the agenda packet. The approval is subject to an executed parking agreement between OSU and the subject entity will be submitted to INCOG for the north portion of the subject property. The Variance for the parking spaces is for the BMX facility to be located on the north portion of this parcel. The Board has found the hardship to be that under normal operations the facility should be able to park and accommodate for events with parking spaces remaining. For the national events the facility will need more parking than what will be normally used, and they have secured a parking agreement to accommodate that. The applicant has withdrawn the request for a Special Exception to permit a hotel and the Special Exception to permit a bar and brewpub in an IM District (Table 15-2) at this time. 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:

**PRT SW SE 36 20 12 & LT 2 1 19 12 & RSVY BLK 5 SLOAN ADD & VAC ALY BLK 3 BG 3.9N SECR LT 13 & NLY471.57 TO PT 14.53S NEC LT 4 BLK 5 TH W350.46 S535.47 E201.99 NELY ON CRV RT111.29 N10.10 E15 NE332.52 N148.10 POB SEC 36 20 12 3.93 AC; PRT SW SE BEG NWC BLK 3 SLOAN ADDN TH E149.54 N385.47 W68 N30 W201.5 TO RR R/W SLY TO SL SE TH E154.2 N110 POB SEC 36**

20 12 & W149.54 BLK 3 3.55AC; ALL BLKS 2 & 3 & VAC ALLEYS & PRT VAC ST BEG NEC LT 3 BLK 2 TH W255 S467.7 SLY168.7 E159.6 S30 E110 N610 NW70.68 POB LESS PRT LT 12 BEG NWC LT 12 TH E25 S110 NW130 POB BLK 3; BEG NWC BLK 5 SLOAN ADD N30 W159.6 NW168.7 N497.7 TO NEC NW SW SE W180 SWLY803.45 E201.5 S30 E260.1 N134.53 E TO POB SEC 36 20 12 4.99ACS; LT 12 BLK 3 BG NWC E 25' S 110' NW TO BEG; N 134.53' BLK 5 & VAC ALLEY ON W; PRT GOV LT 2 BEG 79.3S INT EL RR & NL GOV LT 2 TH N79.3 E154.2 S40 E342 S368 SW141.2 SW115.7 W266.3 N391.85 POB LESS BEG 212.78S SECR BLK 3 SLOAN ADDN TH S145 SW136.28 NE35.71 NE169.78 POB SEC 1 19 12 4.75ACS; LT 1 & E27 VAC KENOSHA AVE & 20 VAC ALLEY & PRT LTS 2 & 3 BEG SECR LT 2 TH SWLY105.06 N119.52 E61.7 SE84 POB BLK 49, FAIRVIEW ADDN, TULSA-ORIGINAL TOWN, SLOAN ADDN, SKIDMORE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

### 22540—Wallace Engineering

#### Action Requested:

Special Exception to permit a school use to allow for a stadium and locker room (Section 40.350-A); Variance of the required number of parking spaces (Table 55-1). LOCATION: 3909 East 5<sup>th</sup> Place South (CD 4)

#### Presentation:

**Scott Rodehaver**, Wallace Engineering, 200 East Brady, Tulsa, OK; stated that in 2015 the Tulsa voters approved a bond issue for Tulsa Public Schools which included a physical education facility for Rogers High School among other projects. This included a football stadium, bleachers, lockers, concessions and a weight room. A Special Exception is requested for stadium use within a residential zoning and a Variance is requested to allow non-simultaneous uses of on-site parking as well as street parking to be used during non-class hours. Rogers High School is an early college academy and hosts TCC classes on campus. It has 1,400 students in grades 7 through 12, and approximately 1,000 of those students are bussed. The existing school was built in 1939 and the current track and football field, as well as baseball and softball fields, were added in 1990. Currently Rogers High School shares a stadium for its home football games at Booker T. Washington and Webster High School. This particular project is located between the football field and the existing school. It will be elevated above the football field approximately 25 feet.

Mr. Van De Wiele asked Mr. Rodehaver if this was on the east side of the stadium. Mr. Rodehaver answered affirmatively.

Mr. Rodehaver stated there will be a plaza that will connect the school with the facility. It is a 20,000 square foot building with bleachers for 1,920 people. In the building there is a locker room, offices, a weight room, a training room, restrooms, a concession area, event room and a press box. In addition, there will be lighting for the evening events that will be placed to illuminate the field and will be in full compliance with the Zoning

Code. The score board will be replaced on the northern end of the field and the school would also like to have a message board for the street side of the score board. In terms of the parking requirements, the stadium requires about 408 spaces and there are 450 spaces available both on campus as well as street parking that is allowed along the perimeter of the site. There are currently proposed spaces to be added along the front of the school in the drop off area. There is currently no net loss in spaces on site when adding the on-street parking spaces. Football games happen in the evenings when classes are not being held so there is no need for parking for multiple class use and stadium use. Mr. Rodehaver stated the lights are 80 feet tall on the east side and 90 feet tall on the west side to get the appropriate foot candles on the field, which is 75-foot candles. By the time you get to the property lines on both the north and south streets it is less than 1-foot candle.

**Mr. Bond left the meeting at 4:23 P.M.**

Ms. Back asked Mr. Rodehaver if she heard that the school would like to have a message board on the street side of the score board which is in an R District. Mr. Rodehaver answered affirmatively; on the 5<sup>th</sup> Street side on the south side. Mr. Rodehaver stated the field in the area is about 16 feet below the street and the sign will be about 15 feet above the field. The message board is proposed to be a 3'-0" x 5'-0" monochrome message board.

Ms. Miller stated that is not part of this application. Mr. Rodehaver stated the question was whether or not that is part of the stadium or is it something separate. Ms. Miller asked Mr. Rodehaver if the message board was internal to the stadium. Mr. Rodehaver stated that it is on the back of the scoreboard.

**Mr. Bond re-entered the meeting at 4:26 P.M.**

Mr. Van De Wiele stated the Board cannot grant that request because it is not part of the application.

**Interested Parties:**

**Gil Cloud**, Director of Athletics for the Tulsa Public Schools, 3027 South New Haven, Tulsa, OK; stated he has 20 secondary schools and 66 elementary schools that he deals with on a daily basis for physical education through athletics. The stadium project was approved in the 2015 bond issue by an 80/20 percent margin, which is one of the highest in Tulsa County. The stadium will also be used for soccer, physical education and track and field; it is a multi-purpose facility for the high school and the junior high school. All of the stadiums are open until 10:00 P.M. when they are locked for security.

Mr. Van De Wiele asked Mr. Cloud if there would be any other high school co-locating football teams. Mr. Cloud stated that it is a possibility for Nathan Hale to play some of their home games there to take the load off Eastside. This is a project that the alumni are excited about as they get ready to celebrate the 80<sup>th</sup> year of Will Rogers High School this next year.

**Ms. Miller left the meeting at 4:32 P.M.**

**Krystal Markward**, 2717 East 4<sup>th</sup> Street, Tulsa, OK; stated she is the current athletic director at Will Rogers High School. This would be a home for the school's kids, and this will help with transportation costs and would allow a place for the kids to be after school. It will also house not only football, but soccer, track, physical education, band and ROTC. It will allow the school to have more physical education and fitness classes. It will give the neighborhood and the students a place to gather and be proud of.

**Nicolette Dennis**, 3904 South St. Louis Avenue, Tulsa, OK; stated she is the principal of Will Rogers College Junior and Senior High School. In 2011 TPS reconstituted the school, closed Wilson Middle School and Cleveland Middle School and redistricted those students. They opened Will Rogers as an early college academy. She came from Albuquerque in 2014 to take this position, there were fewer than 800 students. The goal of the school has always been to have 1,500 students; 500 seventh and eighth graders and 1,000 high school students; there are presently about 1,400 students. People that want to be there and it is a school that has really changed its reputation and the school has the second highest graduation rate in the city. Will Rogers High School is a low-income school and serves a community that is often under represented.

**Ms. Miller re-entered the meeting at 4:48 P.M.**

Having the stadium is a benefit for children that have had to travel long distances at a cost to TPS to attend the football and sporting events. In the long run this will be a gathering place for the community. There will be cameras in place to create a safe environment for people. There was a community at the school about a week ago and most of the concerns were around access and some concerns about removing and relocating parking spaces in front of the building; there will be diagonal parking instead of parallel parking in the front. There be nothing done to change the historic value or the significance of the school; it is on the National Historic Register and the school will maintain the beauty and dignity of the Tulsa public treasure.

**Brooke Kononchuk**, 521 South New Haven Avenue, Tulsa, OK; she is concerned about the on-street parking. She lives directly across the street from the school and it is an issue. The majority of the neighborhood works 8:00 A.M. to 5:00 P.M. so most of the residents do not see the issues there is with on-street parking. Ms. Kononchuk

recorded a video and had the video played at the meeting for the on-street parking during the after-school pickup, which starts at 3:00 P.M. and ends at 4:30 P.M. She would request the Board place a stipulation on the street parking that would still allow the street parking for the residents on the weekends. Ms. Kononchuk stated she cannot have company over during the week because parking is currently not allowed until 9:00 P.M. and her driveway will only fit a couple of cars, so it is essentially left to the weekends. The plan being proposed is only showing parking on the school side of the street, so she would request signage to be placed showing that parking is only allowed on the school side of the street. Ms. Kononchuk stated she works from home and her driveway is almost always blocked on a daily basis.

**Nicolette Dennis** came forward and stated that the illegal parking is a Tulsa Police Department issue because it is about ticketing the people that are parked illegally. Ms. Dennis stated she has no jurisdiction as the Principal as to what happens on the street, but it is an issue. She does not think it will happen at games because part of the problem people come early and park to pick up their children. She has gone outside and asked people to move but her jurisdiction is the building and not the street.

Mr. Van De Wiele asked Ms. Dennis what level of outreach is she doing with the students and the parents to help alleviate this problem. This is not the first time the Board has had these issues come before them; they have had them at Edison with expansions, at Celia Clinton, McClain, Booker T. Washington and it is an issue. His only comment that has ever been is to be as good a neighbor as possible to the residents in the area. Ms. Dennis stated that she does try; she sends out messages, speaks at almost every public event about parking, sent flyers out, had announcements through telephone calls, people just get in a hurry and do not pay attention. Mr. Van De Wiele told the neighbors to be a major thorn in the side of the schools and the Police; call early and often.

**Russell McDaris**, 439 South Pittsburg Avenue, Tulsa, OK; stated he lives by the softball and baseball field areas. Parking is a nightmare. When he comes home at 5:00 P.M., if there is a baseball or softball game, there is no parking on the street left for him to park at his house. He has a one car spot in the driveway and three people live in his house. The parking request is for non-simultaneous use, but the problem is there are three gyms, an auditorium, two other sports fields on the property and the parking that is there does not even cover the normal needs before a stadium is added. He does not see how the school can coordinate and guarantee there will be absolutely no other use on the subject property except for the football or except for the soccer or whatever event is happening in the stadium. There is no parking anywhere in the area. This is an 80-year-old school. The field has been just a practice field for 20 years and now they want to have not only this school's game but bus other schools to the subject stadium. He does not understand why a school that has been in existence without a stadium this long all of a sudden has to have an additional stadium at the facility.

Ms. Ross stated that is was a bond issue that was voted on, so it is not before the Board about whether the stadium can go in.

Mr. McDaris stated that it is great that 80% voted for this bond, but it was a gigantic all-inclusive bond that was supposed to repair the schools across the entire City. This is one little small sliver of that bond issue. This does not make sense because it seems like money is being spent just to spend the money.

**Ben Jarvis**, 3741 East 4<sup>th</sup> Place, Tulsa, OK; stated he lives right across the street from the school. He thinks this is a good idea; he has two children that attend the school. He thinks the kids deserve this. He knows that the parking on the street is problem; he sees it.

**Matt Tarvin**, 3710 East 5<sup>th</sup> Place, Tulsa, OK; stated that for the most part he does not have a problem with the project but agrees with the concerns about parking. The largest concern is the message board on the back of scoreboard. That sign will shine right into his living room window. He does not know of a lot people that will be able to see that message board because it will be fairly close to the road. There will not be a great diagonal view in either direction. If the message board is for the neighborhood, he would prefer that it not be done. Mr. Van De Wiele stated that the Board is not taking any action on the message board today because it would be through a separate application that the neighbors would receive notice of, and the residents would have another opportunity to spend an afternoon with the Board.

**Travis Eslick**, 524 South Marion Avenue, Tulsa, OK; stated he thinks it will be great for the school to have the stadium, but there are concerns about parking. Mr. Eslick thinks a staggered dismissal would help with the parking issues. He would like to see striping for the parallel parking on the street, possibly install a bike lane. Fifth Street is an extra wide street and there are no markings for that on the street, so traffic meanders around and causes a lot of congestion. Another concern is that the field remain open, and if this is approved, he would ask there be public hours for the field because currently the public uses that field and track. Mr. Eslick stated there is not really any need for a scoreboard; the north side of the stadium is a better location for that. Locating the scoreboard on the north side will also would not require spectators to look into the fall southwest sun. There is currently a message board on 5<sup>th</sup> and Pittsburg.

**Shane Bevel**, 826 South Jamestown, Tulsa, OK; stated he lives in the southwest corner of the neighborhood near 11<sup>th</sup> and Harvard; he lives two blocks from the Tulsa University stadium; he knows what it is like to live next to a football stadium. It is not a huge bother and occasionally he has to pick up trash, but it is no different than the middle of the week. Fifth Place and Fourth Place are wider because they were widened for school bus access, but people do drive down the middle of the street because there are no stripes on the road, not even a middle stripe. He would highly suggest that the streets are marked and striped, not only for the lanes but where parking is. Mr. Bevel stated he supports the stadium and he supports Will Rogers High School, and he is excited for the new addition to the neighborhood, but the parking issues can be real and can be solved. The neighborhood is an RS-3 neighborhood and is a fairly high-density

neighborhood and there is not a lot of green space, he would much rather use the asphalt that is in place rather than add any more.

**Comments and Questions:**

Mr. Bond stated that he understands the parking issues, but they are City issues. The best way to get those resolved is to work with the City or the Tulsa Police Department, as well as the high school. Part of living next to a school is residents have to deal with traffic. This is Oklahoma and in Oklahoma schools play football on Friday nights, sometimes Thursday nights. He would like to see the City help the residents, but he is excited for the students and for the school. He will support the project.

Ms. Back stated that she is very excited that there will be a football stadium for the students to hone their skills and their craft. If she were living across from the stadium, she would not want the reader board in front of her house.

Ms. Ross stated she is in support of the project. There definitely appears to be a problem and hopefully the street striping is something the City can resolve.

Ms. Radney stated she would like to hear from the applicant about the suggestion of not taking some of the green space that is in front of the historical front door of the property, because if that were to be removed, she would be curious to know what the impact is going to be in terms of the necessity of street parking.

**Nicolette Dennis** came forward and stated that if more parking can around the circle, and there won't be that much green space taken, the cars are now parking parallel and they will be diagonally. If the cars are parked diagonally parking can be taken off the street. The parking spaces would be doubled, from 18 to 36 spaces.

Mr. Van De Wiele asked if one of the school members would commit to undertake the street striping and somehow address the traffic flow issues, the Board would appreciate that.

**Chris Hudgins**, Tulsa Public Schools, 3027 South New Haven, Tulsa, OK; stated there is a vision project that has funding, so one of things that could be done is to prioritize Will Rogers to get a study done by a traffic engineer.

Mr. Van De Wiele stated he is in support of the project. The funds have been allocated and secured, and some of this is just part of the pain of living near a high school. He believes he is seeing the school system at least attempting to address some of the issues.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 4-1-0 (Back, Bond, Ross, Van De Wiele "aye"; Radney "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a school use to allow for a stadium and locker room (Section 40.350-A); Variance of the required number of parking spaces (Table 55-1), subject to

conceptual plans 12.8, 12.9, 12.10, 12.11, 12.12, 12.22, 12.23, 12.24, 12.25, 12.26, 12.27, 12.28, 12.29, 12.30 and 12.31 of the agenda packet and the plans submitted today. The Board has found the hardship to be existing parking spaces not in use at the time of athletic events. 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:

**BEG 1219.4E & 25S NWC OF SW TH S791 SW40.03 E1437.1 N826 TH W1417.08  
POB LESS S35 FOR ST SEC 4 19 13, City of Tulsa, Tulsa County, State of  
Oklahoma**

**Ms. Blank left the meeting at 4:55 P.M.**

**22536—Gerardo Campos**

**Action Requested:**

Special Exception to allow a commercial/commercial service/building service use in a CS District (Table 15-2); Variance of the dustless, all-weather surface requirement to permit gravel drive and parking area (Section 55.090-F2).

**LOCATION: 13100 East 11<sup>th</sup> Street South (CD 6)**

**Presentation:**

The applicant was not present.

Mr. Van De Wiele informed the interested parties that typically what the Board does in these situations is to continue this for one more meeting, which would be December 11<sup>th</sup>. The Board does not know why the applicant is not in attendance today, but the Board can hear the comments of the interested parties today and they will be in the record. If the interested parties would like to come back on the 11<sup>th</sup> and speak again they can do so, but the Board can hear what they want to say today if they are so inclined. The interested parties acknowledged Mr. Van De Wiele and stated they want to speak today.

**Interested Parties:**

**Ward Koch**, 1709 South 141<sup>st</sup> East Avenue, Tulsa, OK; stated the City statement says that the mission of the Planning Department is to ensure Tulsans achieve the kind of City they want in the future in accordance with PlaniTulsa, the City's Comprehensive Plan and the components amended to it. Mr. Koch stated he discovered the Comprehensive Plan for the City of Tulsa that is called The East Tulsa Neighborhood Detail Implementation Plan. Properties located near an arterial street intersection, that provides an opportunity to create a positive appearance for the area. Its high visibility and accessibility allow a "message" brand, through public and private buildings and site improvements. Mr. Koch provided pictures of the subject site which were placed on the overhead projector. The East Tulsa Plan also includes a special treatment corridor. It is intended that 11<sup>th</sup> Street from Highway 169 to 145<sup>th</sup> East Avenue be improved and enhanced. Special treatment corridors can be people friendly and include special landscape, streetscape and similar enhancements. These corridors are to provide for safe and efficient vehicular movement linking the various components of the community and to help organize the metropolitan structure. It is intended that the Route 66 Plan will be included as components of future roadway improvements and enhancements. East 11<sup>th</sup> Street is officially part of the U. S. Bicycle Route System and is designated as Bicycle Route 66. Tulsa has generously funded projects to provide the Route 66 experience. While we continue to enhance the attractiveness of the 66 corridor, we find land use contrary to Route 66 development. There are sites in East Tulsa that are considered to be vacant, undeveloped, and under-developed. It is recommended that these sites be developed in a manner that will support the goals and recommended policies of Planning Guidelines, specifically the East Tulsa Development Plan that was created in 2005. Important consideration should be taken in account before these sites are developed. The owner, upon advice from Code Enforcement has applied for the required zoning clearance permit. He has changed his initial selected land use to a land use that will match what he is actually doing on the site, that is a construction yard for equipment, material and debris. He has provided a generalized plan for this property. Mr. Koch understands the clearance zoning permit is on hold and the Letter of Deficiency has not been completed yet. Mr. Koch believes the Special Exception should be denied. There is definitely no required screening. The property abuts RS property, abuts public streets that requires screening, and nothing should be seen from that property. There are three entrances to the subject property; two on 11<sup>th</sup> Street and one on 131<sup>st</sup> Street. The entrance on 131<sup>st</sup> Street is generally the entrance the applicant uses for large dump trucks pulling trailers, and that is a residential street that leads to a neighborhood church. The entrance gate does not have a setback on it, so

trucks are parking in the street or on the grassy right-of-way while the gate is being opened. This should not be allowed.

**Ms. Blank re-entered the meeting at 5:13 P.M.**

Mr. Koch stated the Variance should be denied. The existing gravel driveway that exits onto South 131<sup>st</sup> East Avenue has failed to provide the surface required to prevent the accumulation of gravel or soil from being tracked from the driveway north to the intersection of East 11<sup>th</sup> Street and South 131<sup>st</sup>. He would ask for a commitment from the City of Tulsa, to the East Tulsa residents, to look at the East Tulsa Implementation Plan because the residents would like to see their side of the city to become a gateway. It has been ignored for a long time. Mr. Koch stated he is a volunteer for the Sign Abatement Program and he picks up signs and see every violation that goes on. He asks for a commitment to support quality growth and redevelopment, and to develop the undeveloped areas of the community.

**Christy Boggs**, 11275 South 157<sup>th</sup> East Avenue, Tulsa, OK; stated she is a Board member of the Tower Heights Neighborhood Association. Her property is about 1 ½ miles east of the subject property. Everyday she drives up and down the street she has to look at the subject property that is messy, dirty, and ugly. The fence is not professionally installed; it has uneven metal poles, tall chain link fencing and looks like it was just put up to secure the piles of rocks and dirt. There is tall grass that is about four feet tall around the dirt piles and rocks. Occasionally there are dump trucks with the hood open like they are being worked on. Before the owner was cited by the City there were about ten older vehicles that were constantly parked randomly overnight and stored during the day. There is gravel on the street at the intersection because the dump trucks drag it and it is a very dangerous situation. Route 66 is our heritage and she has lived in the area for 17 years. The area is starting to see \$300,000 houses being built and it is starting to grow, when this applicant moves in and trashes the corner. It is awful. The residents do not want this type of operation in the area; it looks like a junk yard. Ms. Boggs strongly opposes this type of business being allowed in the area and opposes the requested Special Exception.

**Eck Ruddick**, 14673 East 11<sup>th</sup> Place, Tulsa, OK; stated he is the Chairman of the Board of Directors of Tower Heights Neighborhood Association. Mr. Ruddick provided e-mails from residents of the area and they are all against the Special Exception. This person came in, erected a fence, started dumping construction material and it is tall piles of rocks, trees, junk. This borderlines the Mother Road. There is no road in America more historic than Route 66, and the subject property is right on the edge of it. The intersection of 129<sup>th</sup> and 11<sup>th</sup> Street is a major intersection and this kind of filth cannot be allowed to be there. East Tulsa needs less industrial type business and more beautification, it is the travelers of Route 66 first view of Tulsa. It is bad enough that it has been overcome by used car lots, but to add industrial business such as the one at the southeast corner of 129<sup>th</sup> and 11<sup>th</sup> Street it becomes less and less attractive to the

out of town visitors. Many of the residents have lived in the Tower Heights area for years and have worked hard toward a goal of keeping the land and homes in great condition. This particular new business is detrimental to these efforts. Please do not allow this business to degrade the area. When someone is serious about a business, they develop an engineering drawing, and the applicant presented a drawing without detail. There is nothing indicated in the provided drawing as to what will be done on the subject property. Mr. Ruddick asked the Board to deny the Special Exception and Variance.

**Comments and Questions:**

Mr. Van De Wiele stated this will need to be continued to the next meeting, and he will be prepared to vote on this request whether the applicant is present or not. Mr. Van De Wiele thanked the interested parties for their patience and they are more than welcome to come back to the meeting on the 11<sup>th</sup>.

Ms. Back stated that she would like to see a site plan that has dimensions on it.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Special Exception to allow a commercial/commercial service/building service use in a CS District (Table 15-2); Variance of the dustless, all-weather surface requirement to permit gravel drive and parking area (Section 55.090-F2) to the December 11, 2018 Board of Adjustment meeting; for the following property:

**N250 E/2 NW NW NW LESS N24.75 FOR ST SEC 9 19 14 1.71ACS, City of Tulsa, Tulsa County, State of Oklahoma**

**Ms. Ross left the meeting at 5:33 P.M.**

**Ms. Radney left the meeting at 5:33 P.M.**

\* \* \* \* \*

**OTHER BUSINESS**

**22531—Gant Hinkle**

**Action Requested:**

Possible Reconsideration of a Variance of the minimum lot width to allow for a lot split (Section 5.030-A). **LOCATION:** 4687 South Columbia Avenue East **(CD 9)**

**Ms. Radney re-entered the meeting at 5:35 P.M.**

**Presentation:**

**Nathan Cross**, 2 West 2<sup>nd</sup> Street, Suite 700, Tulsa, OK; stated there is no one to speak out in favor of or in opposition because the interested party is the applicant. Mr. Cross stated that he had forwarded an e-mail to INCOG earlier this week that explained his position, which is that we can demonstrate with no action of this Board we can still obtain a lot split but it is not what we want to do because we think it would be a detriment to the neighborhood to some extent compared to what was proposed previously. The elevation change that was discussed previously makes that a very difficult concept because of the development issues that are related to the lot on the east side.

Mr. Van De Wiele stated that his concern is that for a reconsideration there has to be somebody that voted in favor of the prevailing motion that it be reconsidered. His concern was that there was no prevailing motion, so it was more of a technical question. Was there a possible motion for somebody to make today to reconsider. He has run that issue to ground with City legal.

Ms. Blank stated there needs to be two motions today; one from each pair that voted in favor of or not in favor of the request at the last meeting.

Mr. Van De Wiele asked Ms. Back if she was inclined to rehear this request. Ms. Back stated that she is not inclined to rehear this case.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 3-1-0 (Bond, Radney, Van De Wiele "aye"; Back "nay"; no "abstentions"; Ross absent) to **RECONSIDER** the request for a **Variance** of the minimum lot width to allow for a lot split (Section 5.030-A) in BOA-22531 at the December 11, 2018 Board of Adjustment meeting; for the following property:

**BEG 658.4 E & 1144 N SW COR SE SW TH W 299.2 N 155 E 299.2 S 155 TO BEG SEC 29-19-13, City of Tulsa, Tulsa County, State of Oklahoma**

On **MOTION** of **BOND**, the Board voted 3-1-0 (Bond, Radney, Van De Wiele "aye"; Back "nay"; no "abstentions"; Ross absent) to **RECONSIDER** the request for a **Variance** of the minimum lot width to allow for a lot split (Section 5.030-A) in BOA-22531 at the December 11, 2018 Board of Adjustment meeting; for the following property:

BEG 658.4 E & 1144 N SW COR SE SW TH W 299.2 N 155 E 299.2 S 155 TO BEG  
SEC 29-19-13, City of Tulsa, Tulsa County, State of Oklahoma

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**NEW BUSINESS**

None.

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**BOARD MEMBER COMMENTS**

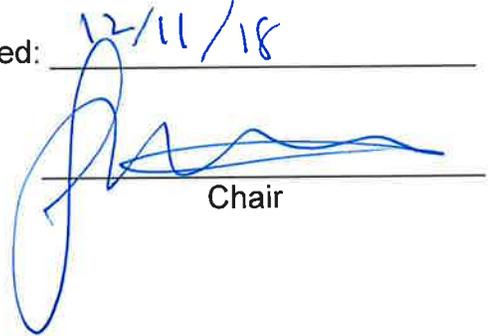
None.

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There being no further business, the meeting adjourned at 5:35 p.m.

Date approved: \_\_\_\_\_

12/11/18



Chair