

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1213  
Tuesday, September 11, 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 Back, Vice Chair Ross, Secretary Radney	Bond	Wilkerson Ulmer Sparger R. Jones	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on September 6, 2018, at 9:55 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

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**MINUTES**

None.

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**NEW APPLICATIONS**

**22505—Mark Capron**

**Action Requested:**

Variance to permit a structure to be located within City of Tulsa planned street right-of-way (Section 90.090-A); Variance of the removal agreement requirement with the City of Tulsa for structures in the planned street right-of-way (Section 90.090-A). **LOCATION:** 1202 & 1206 East 3<sup>rd</sup> Street South **(CD 4)**

**Presentation:**

The applicant requested a continuance.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for a Variance to permit a structure to be located within City of Tulsa planned street right-of-way (Section 90.090-A); Variance of the removal agreement requirement with the City of Tulsa for structures in the planned street right-of-way (Section 90.090-A) to the September 25, 2018 Board of Adjustment meeting; for the following property:

**LOTS FOURTEEN (14) AND FIFTEEN (15), BLOCK EIGHTEEN (18), BERRY ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF.**

**AND**

**THAT PART OF LOTS ELEVEN (11), TWELVE (12) AND THIRTEEN (13), BLOCK EIGHTEEN (18), BERRY ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT THIRTEEN (13); THENCE EAST ON THE NORTH LINE OF LOTS THIRTEEN (13), TWELVE (12), AND ELEVEN (11) TO THE NORTHEAST CORNER OF SAID LOT ELEVEN (11); THENCE SOUTHWESTERLY TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF THE M.K.T. RAILWAY, SAID POINT BEING FIVE AND FIVE-TENTHS (5.5) FEET NORTHWESTERLY OF THE SOUTHEAST CORNER OF SAID LOT THIRTEEN (13); THENCE NORTHWESTERLY ON SAID RIGHT-OF-WAY LINE TO THE SOUTHWEST CORNER OF SAID LOT THIRTEEN (13); THENCE NORTH ON THE WEST LINE OF LOT THIRTEEN (13) TO THE POINT OF BEGINNING, City of Tulsa, Tulsa County, State of Oklahoma**

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**UNFINISHED BUSINESS**

**22493—Robert Bingham, Jr.**

**Action Requested:**

Special Exception to permit Commercial/Vehicle Sales and Service/Personal Vehicle Sale and Rentals Use in a CS Zoning District (Section 15.020); Variance to

allow outdoor storage and outdoor merchandise display within 300 feet of an abutting R District (Section 15.040-A). **LOCATION:** 7924 East 15<sup>th</sup> Street South (CD 5)

**Presentation:**

**Robert Bingham, Jr.**, 1013 West Granger Street, Broken Arrow, OK; stated he provided Amy Ulmer with a rendering of how he and Mr. Allred plan on parking the cars on the subject lot.

Mr. Van De Wiele asked Mr. Bingham if the white fence went all the way to the back of the property. Mr. Bingham stated that west fence was on the west side of the property and it goes back 45'-6" from the front rail and then goes over to the building about 45'-0".

Mr. Van De Wiele asked Mr. Bingham how he would access spaces tagged 21, 22, 23 and 24. Mr. Bingham stated there is an entrance over to the right of the property where there is no rail separating the two properties.

Mr. Van De Wiele asked Mr. Bingham if he planned to stripe the lot. Mr. Bingham stated that if it is required.

**Interested Parties:**

**Mike Allred**, 1715 West 109<sup>th</sup> Street, Jenks, OK; stated he will have eight parking spaces on his portion of the subject property.

Mr. Van De Wiele asked Mr. Allred how many of the rental resale vehicles will be stored or displayed on the lot at any given time, and where will they be displayed. Mr. Allred pointed to eight spaces on the drawing displayed on the overhead projector.

Ms. Ross asked Mr. Allred where the employee parking will be located. Mr. Allred stated there is a circle driveway and additional parking and storage in the garage that can be utilized.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to permit Commercial/Vehicle Sales and Service/Personal Vehicle Sale and Rentals Use in a CS Zoning District (Section 15.020); Variance to allow outdoor storage and outdoor merchandise display within 300 feet of an abutting R District (Section 15.040-A), subject to conceptual plan on the exhibit submitted today, 09/11/2018. The used car lot on the east portion of Exhibit 1A is limited to 16 spaces for parking, and the remainder west portion is limited to 8 vehicle parking spaces for display outside. The Board finds the hardship to be for the portion on the right that it was previously used for

an auto dealership for about 25 years and limiting the number of parking spaces outside to 16 parking spaces; and limit the usage of the piece to the car lot on the tract to the east. The Board finds the hardship for the property to the west is that the layout of the property with the existing pole and parking situation, and it will be shielded by the buildings to the west. In granting the Variance 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. 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:

**W170 N 1AC NE NE NE SE SEC 11 19 13, City of Tulsa, Tulsa County, State of Oklahoma**

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**NEW APPLICATIONS**

**22501—Christy Allen**

**Action Requested:**

Special Exception to allow a Bed and Breakfast (short-term rental) in a RS-3 District (Section 5.020). **LOCATION:** 1635 South College Avenue East **(CD 4)**

Mr. Van De Wiele announced that there would be a time limitation on both sides because of multiple parties that wish to speak. The applicant will have five minutes in the beginning, five minutes at the end for rebuttal, and each speaker will have three

minutes to speak. Mr. Van De Wiele asked the interested parties to not repeat the same thing that has been said previously so that we can get through this and each party will be given a warning when the time is getting close to the end.

**Presentation:**

**Lloyd Allen**, 1416 South Indianapolis, Tulsa, OK; stated he lives about a ¼ mile from the subject property. Mr. Allen stated that he and his wife would like to use the house as a VRBO, vacation rental, and he was told that he needed a Special Exception to do so. This Special Exception implies that he is trying to open a bed and breakfast establishment, and he is not trying to do that. He will not be serving any food. He purchased the two bedroom house due to his wife's, Christy, aging parents living next door to the subject property and they would like to continue living in their house. The subject property house shares a driveway with the other house. When he purchased the house, no one had lived in it for two years and had been abandoned, and he and his wife did a complete remodel of the house, rebuilt the garage, poured a new driveway, and added a retaining wall around the front yard. The subject house is currently being used as his personal guest house for family and friends. The house has ample parking next to the garage, enough for two cars or three if needed. The VRBO guests would need to pay for their stay well in advance, and the guests would be limited to two cars. Mr. Allen provided a copy of his house rules for any potential guests. Mr. Allen stated he does not want the house to turn into a party house and wants to keep the house in good condition. Mr. Allen stated that his father-in-law lives next door, so he can help monitor the subject property, and the entire house has security cameras with an alarm system. A police officer lives behind the house and he supports the request.

Ms. Ross asked Mr. Allen what he hopes to rent the house for per night. Mr. Allen stated that he plans to rent it for about \$110.00 per night but that truly depends on the market.

Mr. Van De Wiele asked Mr. Allen how many names on the petition are immediate neighbors. Mr. Allen stated that within a 700-foot circle he thinks there are ten.

**Interested Parties:**

**Martin Glen Godsey**, 1636 South College Avenue, Tulsa, OK; stated he has lived across the street from the subject property for 25 years. His concerns are the prices of the houses because they have tripled since he moved into the neighborhood, and its because it is a unique neighborhood with character. Mr. Godsey stated that a short-term rental is a hotel and the precedent of having a hotel across the street is a precedent for other businesses.

**Patrick Conley**, 1732 South College, Tulsa, OK; stated he lives a block south of the subject property. He has lived in Florence Park for 40 years and has lived in his house for 31 years. Mr. Conley stated this is an existing residential neighborhood according to the Comprehensive Plan and is intended to preserve and enhance Tulsa's existing single-family neighborhood. Activities in these areas should be limited to rehabilitation,

improvement or replacement of existing houses and small-scale infill projects as permitted through clear and objective setbacks and other development standards. This is an area of stability. An area of stability is identified and maintain the value of character of an area while accommodating the rehabilitation, improvement or replacement of existing houses and small infill projects designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character. Mr. Conley stated that this text alone should be enough to deny this application. A commercial use violates the Comprehensive Plan for the area. The use is mutually exclusive and incompatible. There would have to be an overwhelming compelling benefit to the neighborhood to approve this application. Mr. Conley stated the other reason he is against this request is the precedent. If this Special Exception is allowed how would the Board deny another Special Exception? Commercial use would be right in the middle of Florence Park because it is surrounded by RS-3, all the way to 21<sup>st</sup> Street and all the way to 15<sup>th</sup> Street. Mr. Conley stated this area is selling for one of the highest square footage price in the City of Tulsa, and there are very few neighborhoods that demand that kind of price. A commercial use in the middle of the neighborhood would have a negative impact. The residents have a desire to maintain the character of this neighborhood. Most of it is owner occupied single-family units with a few duplexes. This is not an economic development issue and this Board is not an economic development tool of the City. The Board's role is to protect neighborhoods from this kind of thing, so he urges the Board to deny this application.

**Simon Fleischmann**, 1511 South Florence Place, Tulsa, OK; stated he has lived in his house for over a decade, and he lives across the street from a non-exempted Air BnB. Mr. Fleischmann presented a signed petition to the Board. Whether this is called a VRBO or an Air BnB it's all effectively the same thing, it is a short-term rental. Mr. Fleischmann stated that he has seen the kind of affect that can have on a neighborhood, and he lauds the applicant for bringing this before the Board as there are a number in the neighborhood that have not done that or gone through the process. When this first came out, it was typically a home owner that had an extra room, and he has not problem with that, but the public has moved away from that. There are now a number of properties where the entire house is being offered for the use of the short-term rental. In fact, in one square mile area in Florence Park there are 13 such properties currently and they are shown on the Air BnB site. An addition of another does not benefit the neighborhood or this property. In the greater area of the four-square miles that surround the subject property there are 50 such properties. Mr. Fleischman stated this is the first one that he has heard of actually coming before the Board of Adjustment, there are a good number of them that are obviously running under the radar and operating, so he urges the Board to not grant this Special Exception until the Code is brought into an understanding of what the short-term rentals mean for neighborhoods.

**Deborah Godsey**, 1636 South College Avenue, Tulsa, OK; stated she is concerned about the fact that there will be no permanent resident and living across the street from a short-term rental. Ms. Godsey stated is not thrilled about having transient neighbors. She has stayed in Air BnB's in exclusive neighborhoods in St. Paul and the City of St.

Paul is looking at banning them, because it is an issue. The neighborhood as itself is a community, it is a neighborhood where people know their neighbors and know their cars, and everyone watches out for one another. Ms. Godsey has a major concern that businesses will be invading the neighborhood. She has concerns about the sales of the houses in the neighborhood because Air Bnb's affect the values of houses. Ms. Godsey stated that the neighborhood was not alerted to this until the sign went up and then received a letter after the 30<sup>th</sup>. As a whole neighborhood, the residents have not had the opportunity to discuss the issue. Ms. Godsey stated that she hopes the Board will vote no today, but if the Board does not she hopes the Board will consider table it or put a moratorium on the request. Ms. Godsey stated that she would like to see single-family homes remain in Florence Park.

**Cathy Skalla**, 1626 South Florence Avenue, Tulsa, OK; presented a signed petition of 27 residents in the area to the Board. Ms. Skalla stated the vast majority of the people signed the petition because they do not want to see the Special Exception approved. Ms. Skalla stated there was not much notice about this request and residents want to have more input and some time to do research and investigation to see what the long-term impact of these types of establishments are within the heart of very settled and unique neighborhoods. Ms. Skalla stated that she learned a few days ago that of the 13 short-term rentals in the neighborhood, one of them is across the street from her house; she just thought the home owner was having parties all the time because there were so many vehicles at the house all the time. Ms. Skalla stated that with the Allen's situation she thinks this is a thinly veiled Special Exception for a commercial enterprise. She understands the Allen's consideration for the care of the parents, but they have the option of living in the subject property while the parents need close attention. Or the Allen's could stay in the current house and rent the subject property to a long-term renter, even a caretaker. Ms. Skalla stated that she does not think there is a hardship in this case by denying the Allen's something that they must have without which they have no options. The historical use of the neighborhood, since the 1920s, has been long-term occupants or long-term renters, and it would be a detriment to allow this to continue to happen. The fact that there are many unauthorized short-term rentals should not be considered justification for now authorizing an additional short-term rental.

Mr. Van De Wiele announced that this is a request for a Special Exception, not a request for a Variance; Special Exceptions do not require a hardship. A Special Exception is a lower threshold than a Variance which does require a hardship. Ms. Skalla stated that she felt the case was being presented as if it is a hardship on the applicant.

Mr. Van De Wiele asked Ms. Skalla about her experiences with the short-term rental across the street from her. Ms. Skalla stated there are young people there and it tends to attract other young people. Ms. Skalla stated that she lives across from a small interior park within the neighborhood, and very late at night people from that property will drift over into the park well after the posted curfew. There have been on occasion some discarded beverage receptacles, food wrappers, music, lights, etc. There is a

continued presence of people. She just thought it was her neighbor having a lot of parties, so she never said anything to him.

**Jeff Robison**, 1520 South Florence Place, Tulsa, OK; stated that next door to him, to the south, the house was vacant. Then a couple moved in with a lot of cars and a lot of people coming and going all the time. The owner's made a common space in the driveway, and never knew the house was a short-term rental until the common space was developed. The owners rent three rooms in the house, made a common space in the driveway, and the experiences he has had are not pleasant. He has had metal pointed darts thrown at his house, which he brought to the attention of the owner and the owner didn't seem to have any concerns about it. He never knew he could do anything about it until this applicant came up. Mr. Robison is concerned about house values and the character of the neighborhood.

**Charlotte Lazar**, 1914 South Evanston Avenue, Tulsa, OK; stated she took care of the security for the Crime Prevention Network, which was 800 houses in Florence Park, and she did that for seven years. During that time one of the home owners passed away and the house was made into a bed and breakfast, and immediately the parties began. She called Working in Neighborhoods and they checked out the bed and breakfast issue, spoke to the landlord, and that settled down, but the parking issues have never gone away. Ms. Lazar prefers to keep the neighborhood as a residential single-family residence.

**James Kirsch**, 1924 South College Avenue, Tulsa, OK; stated he has lived in his house since 1990. Mr. Kirsch stated he has never stayed at a BnB, so he Googled them and immediately started reading about felons, sex offenders, pedophiles, etc. Mr. Kirsch is concerned about how the people will be vetted to make sure these offensive people can stay even for one night.

**Rebuttal:**

**Lloyd Allen** and **Christy Allen** came forward and stated that he knows parking is an issue, but he believes he has the parking problem solved because there are spaces next to the garage. Mr. Allen stated that he was a former licensed real estate appraiser and he knows property values are based on the highest and best use for the property. Anyone truly concerned about property values should welcome an alternative use option. A property will be valued at the highest of its available authorized uses. Currently there are only two authorized uses for a property in Tulsa; residences or long-term rental. If houses can be used as short-term rentals in addition to the other two uses, the value at sale will be the highest of those three choices regardless of how the house is going to be used. It also adds an additional pool of potential buyers and increases demand which increases value. The property will not be zoned commercial. Mr. Allen stated he still wants to use the house for himself, it is not going to be a business with a sign. The house will be inextinguishable from any other house as a vacation rental. If the VRBO is not successful he will get out of it, and the vacation business model is based on having the nicest house in the neighborhood versus a rental. The owners of rental do not maintain the rental houses over time because there

is no reason to put any money into the house. Vacation rentals tends to be the nicest houses in the neighborhood because it has to be marketed as a desirable house where people want to stay for the weekend. Mr. Allen stated that his guests are not transients, they are vacationers and tourists that bring outside money to the local economy. The City of Tulsa actively encourages tourism. Tourism is the reason the City built the BOK Center, the new Driller Stadium and other things. Residents should be encouraging tourists and not calling them transients or criminals. Mr. Allen stated that he would love for all his guests to be our friend's and neighbor's family that want to stay at the subject property. Mr. Allen stated that he will not be doing this as a one-day rental, it will be a two or three day minimum. The guests will have to pay close to \$600.00 to stay three days because everything is paid up front. There is three-day rental, security deposit and a cleaning fee.

**Comments and Questions:**

Mr. Van De Wiele stated that he understood at the last UED meeting, these will be more readily available without Special Exceptions. There may be a registering and licensing component, but these are more likely to become a use by right than a use by Special Exception. Mr. Wilkerson stated that is one of many options that has been discussed, and City Council is actively looking at a lot of options.

Mr. Van De Wiele stated this is something that has been an issue, not only in Tulsa, it is an issue in lots of cities across the country. It is not a long-term rental, but it is not a bed and breakfast and not a hotel. From his vantage point, the way he has looked at these cases in the past, those that were on the edges of neighborhoods fronting on major streets he was more comfortable with than in the middle of a neighborhood. Likewise, those that were owner occupied or owner supervised he was more comfortable with than absentee owners. The Board has placed relatively short time frame approvals on the cases that have been approved. Mr. Van De Wiele stated that he is somewhat on the fence in this case. With the applicant having a family member living next door it does give him some level of comfort, but he will never vote for one of these without a limited time frame placed on it.

Ms. Back stated that she agrees with Mr. Van De Wiele. The Board looks at these cases very closely, as all the cases, and they are done so on a case-by-case basis. This case does have a family member living next door so its not like nobody is keeping an eye on the place. Ms. Back stated that she too is on the fence. She likes that the owner came forward with their house rules and have done a good job of laying some tight guidelines. Ms. Back asked Ms. Blank if this Special Exception is approved and then the new Code is written if VRBOs are allowed by right, does that undo the Special Exception or does it go by the two-year time limit the Board has imposed on the Special Exception.

Ms. Blank stated the Special Exception being proposed would have a time limit, so she thinks it would be valid to the time limit.

Ms. Ross stated she is in favor in granting this Special Exception with a two-year limit. The reason for her is that she has personal experience with Air BnB and VRBO, and she owns a vacation property outside of the City of Tulsa and it is in an area where there are no zoning requirements. She thinks that a lot of the people that have not received a Special Exception are not charging enough money and that is why people are seeing some of the issues they are seeing in the neighborhood. She wishes more people would come forward from this neighborhood and receive Special Exceptions because the Board would not approve of any that are going to have parties, but responsible Air BnB and VRBO users don't have those issues. Ms. Ross stated she likes the idea that the parents are next door because they will not stand for loud noises and/or parties, and she does not think this is an absentee owner situation because of the parents being next door. If the properties are priced right more affluent people are the ones renting.

Ms. Radney stated she is sensitive to what the long-time residents have stated about the historical character of the neighborhood and wanting to preserve that character. She thinks that is important and that is one of the things that make the urban neighborhoods really special. However, she thinks the residents need to temper that with the fact that this is still an urban neighborhood, so there has always been density in these neighborhoods she does not necessarily concur with the idea that investment in the neighborhood is strictly limited to people that are looking for single occupancy, because there are garage apartments and duplexes for renters to live in. Ms. Radney stated that she is also sensitive to the fact that the location is right in the heart of a cherished neighborhood, but she agrees that it is mitigated by the fact that there is a supervision plan.

Ms. Back stated that she agrees with Ms. Radney in regard to the garage apartments, and there being different types of density mixed into these older neighborhoods that everyone cherishes and proud of. Long term rental is where people take more ownership, and short-term rental is where there might not be ownership component.

Mr. Van De Wiele wants the neighborhood residents to know that the Board has heard more than 20 of these cases and they are all a struggle. The Board values everybody's opinion and listen to it. Each member tries to weigh those as best as they can. As to the upkeep of property, and he is not trying to sway anybody's opinion, from personal experience he has lived in long-term rentals and he thinks the closer one is to the University of Tulsa there are probably more long-term rentals. He can make the argument that long-term rentals are maintained infinitely more poorly than short-term rental. For him, given the supervisory plan, combined with a time limit he could support this request.

**Board Action:**

On **MOTION** of **ROSS**, the Board voted 3-1-0 (Radney, Ross, Van De Wiele "aye"; Back "nay"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to allow a Bed and Breakfast (short-term rental) in a RS-3 District (Section 5.020). The approval is subject to the following conditions: approval is for a time limit of

two years from today's date, September 11, 2020; all guests will be required to park up by the garage and behind the house; the parking will be restricted to two cars; limited to four people and they are required to give names and ages of all four people; two to three night minimum stay, no one night stays; no parties, which includes family reunions, bridal showers, birthday parties, etc.; guests not registered to stay must leave by 11:00 P.M.; quiet time will be between 10:00 P.M. and 8:00 A.M.; an age restriction that a renter must be at least 24 years of age or older; the renter must be respectful of the neighbors. 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 16 BLK 8, AVONDALE ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**22503—Darla Murphy**

**Action Requested:**

Special Exception to allow a Bed and Breakfast (short-term rental) in a RS-3 District (Section 5.020). **LOCATION:** 1411 South Louisville Avenue East (**CD 4**)

Mr. Van De Wiele announced that there would be a time limitation on both sides because of multiple parties that wish to speak. The applicant will have five minutes in the beginning, five minutes at the end for rebuttal, and each speaker will have three minutes to speak. Mr. Van De Wiele asked the interested parties to not repeat the same thing that has been said previously so that we can get through this and each party will be given a warning when the time is getting close to the end.

**Presentation:**

**Darla Murphy**, 1411 South Louisville Avenue, Tulsa, OK; stated she and her husband prepared for today's meeting by talking to the neighbors personally, provided a signature sheet for those who wanted to show support, shared contact information with the neighbors, and hosted an open house to answer any questions. Ms. Murphy stated she posted the room on Air BnB for a short time during the summer and accepted requests for stays in July, August and a guest from Japan coming next summer for a wedding reception. When she learned of the City's 30 day rule she removed the listing and submitted an application for the Special Exception. Her summer guests ranged from one to two people, and two of the stays did not require any parking at all because they either walked to their event or utilized ride share companies. The traffic generated from each of the stays was generally an arrival and a departure each day. Ms. Murphy expects her guests in the future will be very similar, and her spare room is the only room offered she does not foresee any parking needs for guests beyond her driveway, however, there are two parking spaces on the street in front of her house. Ms. Murphy stated that she lives near the fairgrounds and depending on the time of year there can be attendees utilizing the street parking. On a daily basis three or four of the closest

neighbors utilize street parking. All of the guests will be vetted twice; once by Air BnB and again by she and her husband. Ms. Murphy stated that she will not host first time guests. Ms. Murphy stated that she works from home and either she or her husband will always be there, and guests will not have a key to the house. Ms. Murphy stated that her general opinion is that property value is determined by those who live in the neighborhood and those who want to live in the neighborhood. All property owners, whether they live on site, rent the property to long-term or short-term renters are responsible to themselves and each other for taking pride in their property and the community. She will do her best to keep the property looking good and if it does decline it would have nothing to do with the renting of the spare room. During the short time that she had guests during the summer no formal concerns about the guests were made to the City. The formal concerns that were submitted were made after she had personal discussions with neighbors and after the public sign went up. She did receive one informal concern from a neighbor about a guest who went to work before 6:00 A.M. and his vehicle woke her up. Ms. Murphy stated that she and her husband realize that owner occupied short-term rentals might not be for everyone, but she hopes that by sharing this information that the mystery of who is the stranger with the suitcase is no longer a mystery.

**Interested Parties:**

**Sherry Coffee**, 1415 South Louisville Avenue, Tulsa, OK; stated she is the neighbor that complained about the loud truck. Ms. Coffee stated that the Murphys allow their guests to have dogs, and one of the guests did not have a leash on his dog. In addition to running the Air BnB Ms. Murphy has an internet business and has sit and stitch sessions so she has traffic coming and going. Ms. Coffee stated that she is opposed to this request.

Ms. Radney asked Ms. Coffee where her house is located in relation to the subject property. Ms. Coffee stated she lives directly south of the subject property and their driveway is right next to her house.

**Mike Thornberry**, 1423 South Louisville, Tulsa, OK; stated he and his wife have lived in the neighborhood for over 30 years. The Summit Heights neighborhood is the typical residential Tulsa neighborhood full of middle class and upper middle-class residents. Over the years the neighborhood has gone from a very significant amount of long-term rentals to a fewer amount of rentals. When he thinks of a short-term rental he thinks of a hotel, and when he thinks of a short-term vacation rental his neighborhood does not come to mind. The residents want to keep this as a residential area. The residents have seen the neighborhood grow and improve over the last 30 years. If there is one there can be 13 like in Florence Park. The Board can apply conditions to an approval but there is no way to police such things in neighborhoods, it is up to the home owners themselves. He objects to this request.

**Taylor Murphy**, 2101 East Omaha Street, Broken Arrow, OK; stated she is Darla Murphy's daughter. The room her parents are letting is a small bedroom and it won't fit more than two people so there would only be two cars at a time maximum, and there is

room in the driveway as well as the space on the street in front of the house. The thing that distinguishes this case from the previous case is that her parents are at the house all the time, and there would always be supervision.

**Jim Banes**, 1348 South Knoxville Avenue, Tulsa, OK; stated he lives about five houses away to the east from the subject property. He has concerns about this. He looked at the Air BnB website and around the fairgrounds there are about 16 BnBs posted. Tulsa is struggling trying to get a handle on this, and in the previous case one of the interested parties stated that one of the cities she had stayed in is moving away from BnBs. Mr. Banes stated that just outside of the neighborhood he found 116 BnBs in the area. Mr. Banes asked if the Board could tell him how many of the BnB applications that have come before the Board have been approved and how does the City enforce the conditions placed on an approval. Mr. Van De Wiele stated he thinks it is about 50% approved, and none of the ones that have been approved have come back to the Board from an expiration of time. Mr. Van De Wiele stated that he has been on the Board of Adjustment long enough to see other uses for other things have come back because a time frame has expired. The Board wants to make sure something is going to be a compatible use and be a good neighbor so the Board place time limitations on the request. More often than not the Board sees that no one will show up in opposition and the Board will extend the approval. If the Board has neighbors coming back saying that everything that the Board asked them not to do, the applicant has violated he will not support the request going forward. Time limitations are placed on an application as a test. Mr. Van De Wiele stated there is a Code Enforcement Branch at the City and he asked Ms. Blank to speak briefly about Code Enforcement.

Ms. Blank stated the WIN Department receives complaints from neighbors and they investigate the complaint, then a notice of violation is given to the owner and then there is a cure period in this process. Ms. Blank stated that WIN is Working In Neighborhoods. The decisions of the Board are public, and the minutes of every meeting are posted on line, so any neighbor can get a copy of what is voted on about a particular property. If the neighbors know what the conditions are and if they felt, they needed to be looked into they can contact the Code Enforcement Department with the City.

Mr. Van De Wiele stated, frankly, the City is looking for neighbors to be its eyes and ears because there are not enough neighborhood inspectors driving around Tulsa looking for violations. And that is not just for things the Board has approved, but things that violates the Zoning Code.

**Rebuttal:**

**Darla Murphy** came forward and stated she gave Ms. Ulmer a petition with about 14 signatures of neighbors in the area that are supportive of this request. Ms. Murphy stated that she too has an age limit on her guests of 21 years or older. She will not have the same type of guests that the Florence Park property will have, she has travelers like a touring folk artist that stayed with during the summer. Ms. Murphy stated she had her listing up for about two weeks and took reservations for periods of time

throughout July and August. Ms. Murphy stated her guests pay a security deposit, a cleaning fee, etc., and they range from \$35 to \$55 for a twin bed. Ms. Murphy stated the reason she is doing this is to build travel relationships with people. She has people that came into town and she and her husband now go to dinner with them when they are staying in Tulsa. She has had guests that have invited her to their homes, because they too have Air BnBs. Ms. Murphy stated she does not allow children because of her dogs and the Oklahoma Westie Rescue fosters.

**David Murphy**, 1411 South Louisville, Tulsa, OK; stated that he and his wife do accept dogs, and he is sorry that one the guests violated a City ordinance by not having their dog on a leash. Mr. Murphy stated that when they walk their dogs they take them on a leash and bag any dog deposits, and they ask their guests to do the same thing. By accepting dogs, it makes his Air BnB unique, but he does foster so any animal that comes to stay has to have full vet records and current on the shots.

**Comments and Questions:**

Ms. Ross stated that initially she did not like the \$25 a night fee, but with a twin bed only they are not going to get much more than that. She likes that the Murphy's are always at the house and that they do not give guests a key. She does not like that they allow pets if it is going to disturb the neighbors. Being woke up by a loud vehicle can happen in any neighborhood.

Ms. Back stated that when she moved to Tulsa she lived on Jamestown in the subject neighborhood, and she has now purchased a house that is not too far from the neighborhood. She likes that this is owner occupied because that reassures her that there is someone there to keep an eye on the property. She does not have a problem with dogs because the owners are Westie rescue, and they will check on any new dog coming into the house. Ms. Back stated the subject property is close to 15<sup>th</sup> Street, close to Harvard and is not in the middle of the neighborhood so she can support the request.

Ms. Radney stated this particular type of model of short-term rental was inspired from a different relationship with the people using the home. The idea of the sharing economy is new and is not the traditional middle-class life style, but it is something that is seen more and more, particularly with young people that visit or come here for internships. She likes the fact that the applicant has parameters around how their short-term guests would be integrated into their family, particularly with the Westie Rescue. She likes the fact that the applicant is cognizant of the fact that their neighbors are proud of their neighborhood and want to remain proud of it. She thinks the applicant is also acknowledging the fact that all the mid-town urban neighborhoods are in transition. She tends to think the people that come before the Board now are the ones who actually want to set a standard for going forward. Ms. Radney stated she would be inclined that think this particular model the applicant has satisfied that standard.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 3-1-0 (Back, Radney, Ross "aye"; Van De Wiele "nay"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to allow a Bed and Breakfast (short-term rental) in a RS-3 District (Section 5.020), subject to a two-year time limitation from today's date, September 11, 2020. 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-12-BLK-7, SUMMIT HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**22504—Veronica Montes**

**Action Requested:**

Special Exception to permit a fence greater than 4 feet in the front setback (Section 45.080). **LOCATION:** 2671 North Quaker Avenue East **(CD 1)**

**Presentation:**

**Veronica Montes**, 2671 North Quaker Avenue, Tulsa, OK; stated she would like to have an eight foot fence to protect her dog, the neighbor's safety and for her own safety. The fence will be wrought iron so you can see through it.

Mr. Van De Wiele asked Ms. Montes if the dog could jump a four foot fence. Ms. Montes answered affirmatively.

Mr. Van De Wiele asked Ms. Montes about fencing in just the back yard. Ms. Montes stated that she has a six foot tall fence around the back yard, and she would like the dog to have the run of the yard because when he is tied up he becomes more aggressive.

Ms. Back asked Ms. Montes if the six foot fence went around three sides of her house. Ms. Montes stated she wants the dog to be able to run all around the yard of her house.

Ms. Montes stated that she has a letter from her neighbor agreeing to the proposed fence, and the house on the other side is empty.

Ms. Back asked Ms. Montes if there were any other wrought iron fences in her neighborhood. Ms. Montes stated that there area only chain link fences in the neighborhood.

**Interested Parties:**

**Joyce Brown**, 1939 East 27<sup>th</sup> Street North, Tulsa, OK; stated she grew up in the community and it is an older community. There is community blight, unkept lots considered undesirable, and her family has acquired lots in the neighborhood to help

stabilize the blight. Ms. Brown stated she owns the lot directly in front of the subject property. The residents walk to the local Dollar General store so there is pedestrian traffic on the street. At this time the area has open front yards without fences providing a welcoming abiance despite having a negative impression. The house on the south has a four foot fence, and the house on the north side has no fencing. An eight foot fence between those two houses would disrupt the continuity of the neighborhood. Ms. Brown believes the wrought iron fence would give the appearance of a correctional facility and an added impression of negativity. These lots have enough space in the rear where Ms. Montes can put her dog in the back yard. Having the dog in the back yard would be more safe for the community than having the dog in the front yard. Ms. Brown stated that she has a concern over how aggressive the dog is if Ms. Montes needs an eight foot fence for the dog. Ms. Brown stated she is opposed to the eight foot fence in the front yard.

**Rebuttal:**

**Veronica Montes** came forward and stated that when she is at work the dog is inside the house, but when she is at home the dog is out in the yard. The fence she is requesting is for everyone's safety.

**Comments and Questions:**

Ms. Back stated she cannot support this request because Ms. Montes has a back yard with a fence. There are no reports of the dog breaking out or jumping over the six foot fence. The reason people have back yards with taller back yard fences is so owners can enclose what they want to keep in their back yard.

Ms. Ross stated she cannot support this request. Ms. Ross stated she is not in favor of fencing off the front of a house to give a dog more room, and if the dog needs more room maybe Ms. Montes should consider moving to a house with more property.

Mr. Van De Wiele stated the fence is out of character with the neighborhood, and he cannot support this request.

**Board Action:**

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Back, Radney, Ross, Van De Wiele "aye"; no "nays"; "abstaining"; Bond absent) to **DENY** the request for a Special Exception to permit a fence greater than 4 feet in the front setback (Section 45.080); for the following property:

**LT-8-BLK-2, WINSTEAD ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**22506—Stephen Schuller**

**Action Requested:**

Special Exception to allow a religious assembly use in the RS-3 District to permit the expansion of a parking area for an existing church (Section 5.020); Variance to allow a parking area within the required street building setback (Section 40.320).

**LOCATION: 3640 South New Haven Avenue East (CD 9)**

**Ms. Ulmer informed the Board that the legal description ERHARDT RESUB S140 LESS E305 B10 THIRTY SIXTH ST SUBURB was pulled from another property so it needs to be taken out of the legal description. Mr. Van De Wiele asked Ms. Ulmer if the case advertised properly and the Board can continue with the hearing of this case. Ms. Ulmer answered affirmatively.**

**Mr. Van De Wiele announced that there will be a time limit of five minutes for the applicant at the beginning and for the rebuttal, and three minutes for each interested party.**

**Presentation:**

**Stephen Schuller**, 100 West 5<sup>th</sup> Street, Suite 1100, Tulsa, OK; stated he represents the Church of Jesus Christ Latter Day Saints. The subject property is at the end of a dead-end street and it is a small parking area. It has extensive landscaping and it will be maintained according to the City's requirements. The church has a sufficient sized facility to house its main congregation but there are other congregations that they have had to lease other facilities elsewhere in order to have a place for them to meet because of the limits on their parking. The church is trying to get everyone under the same roof, like every other church, and they are asking for the Special Exception. Under the Zoning Code churches are permitted in residentially zoned districts as institutions of religious assembly by Special Exception. The church's use of its adjoining property was approved by the Board of Adjustment in 1953. The church and its existing parking lot have a history in the neighborhood of more than 60 years. Now the church hopes to expand their off-street parking lot by 38 spaces and this will allow the church to bring into its own building its various organized groups, some of which meet in other locations because of the parking constraints. This proposed parking area is a measurable reduction in size from the previous proposals in the past. The paved area has been reduced by almost 20%, and there is only one driveway to the street instead of two, almost 10% fewer spaces, and no overhead lighting. The Special Exception is in harmony with the spirit and intent of the Zoning Code and is expressly permitted by the Zoning Code as an accessory use. The design is going to preserve the unique quality of the neighborhood, preserve its character, and it provides for considerably more landscaping than would be required for two houses. It is consistent with similar off-street parking areas for churches throughout Tulsa. Mr. Schuller stated it does provide more intensive landscaping than most church lots in Tulsa, and exceeds

the minimum standard prescribed by the Zoning Code. It provides considerate traffic flow within the parking area. The setback issue is to accommodate and be sensitive the church's neighborhoods by maintaining an adequate separation from the neighboring properties to the south and west, and providing enhanced landscaping around the lot and screening it from the neighbors given the downward slope of the property and how shallow the lots are this shifts the parking area slightly forward into the 25-foot building setback, yet well behind the existing church parking lot. This will not alter the essential character of the neighborhood especially with the excess landscaping all around the lot. It will not impair the use or development of the adjacent duplex properties across the street. Mr. Schuller stated the church is not a non-conforming use, it was approved for its use more than 60 years ago. This brings the church's congregates, its families, its visitors and participants under the same roof instead of scattering them into other facilities for their programs. The parking lot expansion is vitally important to the church to meet the requirements of their observances, and all the requirements of the Zoning Code are met.

**Interested Parties:**

**Dan Alaback**, 3202 East 21<sup>st</sup> Street, Tulsa, OK; stated he is the landscape architect for the project. The parking lot is about seven feet into the setback and the landscape exceeds the City's requirements. The intent in that was to provide screening from the neighbors to the west and the neighbors to the south and the neighbors to the north. The church will maintain the property with the same level of maintenance they have done on the main facility for the last 60 years. This gives the church the opportunity to keep off the parking off the street. The church has conceded on many issues to try to make it work for the neighborhood.

**Jennifer Harmon**, 3523 South Louisville, Tulsa, OK; stated she is with Sonoma Mid-Town Neighborhood Association and she is the founder of Barred Owls of Mid-Town Tulsa. Ms. Harmon stated she is speaking on behalf of the residents that were unable to attend today and others that are here today. Ms. Harmon stated she submitted signed petitions, and all the properties surrounding remain opposed to this latest application. The neighbors are aware that the church was approved to be there in 1953, and it was the church's right to have a clean slate on the adjacent properties. Ms. Harmon stated this is an RS-3 existing neighborhood and an area of stability. The guiding principle in the Comprehensive Plan for existing neighborhoods is to preserve, rehabilitate, improve, and replace existing homes and where it is appropriate small-scale infill gearing towards preserving housing. Parking lots are not allowed by right in RS-3. The proposed parking lot, to the neighbors, is not small infill. The addition of concrete to what is now considered an open space in the Comprehensive Plan is a rarity that is not recommended by the Comprehensive Plan. The neighborhood has already lost four houses of affordable housing in an area of midtown that people do like to move to. There are a lot of first-time home buyers; they love the shade and the character of the area, and they love learning about the owls. That is part of the valued character for the residents. It is probably why the church selected that area, because of the ambiance. To the neighbors not only losing the four houses but also adding that extra layer of concrete, to them it will substantially and permanently alter the area and

not for the better. The neighborhood is an area of stability, and in that part of the Zoning Code it talks about identifying and maintaining valued character in concert with rehabbing and improving and replacing houses. The area is not Florence Park nor Ranch Acres. There is nothing architecturally unique about the mid-town area but what people do love about it is they love the shade, love the landscaping and love the fact that they can get anywhere in the City in about eight minutes. On Louisville the elevation is higher, and the ground level landscaping cannot compensate for the loss of the old trees. Ms. Harmon stated this is an RS-3 existing neighborhood and parking lots are not allowed by right, just adding that layer of concrete will affect the people's residences and the quality of life. The church's parking lot is still not full during their service times. There is parking they could utilize in the even they needed extra parking on 37<sup>th</sup> Street. She cannot see how they meet what the requirements are in the Zoning Code for approving a Special Exception. The plan today is not substantially different than it was before, and because of that she is respectfully asking the Board to deny this request for a Special Exception.

**Mary Huckabee**, Conner & Winters, 4000 One Williams Center, Tulsa, OK; stated she represents Dr. and Mrs. Cody who live on the south side of the subject property; the Codys have lived there since 1972. The parking lot was denied once before not only due to the design but because it is not in harmony with the quiet residential neighborhood. In the last minutes it stated it was not due to any particular placement of the entrance or the landscaping it was because a parking lot is not in the harmony with the residential neighborhood. It does not comply with the Comprehensive Plan. New structures should be in harmony with the character of the neighborhood and appropriate in form, rhythm, scale and proportion as set out in the Comprehensive Plan. The rhythm of the neighborhood is a steady and gentle ebb and flow of residences. The parking lot is going to be totally out of sync with that rhythm. It will fill with noisy cars once a week on Sunday morning when the neighbors will most likely be home and experience those consequences. Then the parking lot will sit as a dead hot paved lot the rest of the week. Even more troubling, the Codys property already floods with which this large lot will only exacerbate. There are several features that actually make this plan worse than the previous plan which was rejected. The new plan only cuts four spaces and they request a Variance to push the lot closer to the neighbors across the street allowing headlights to shine into their windows even more so than before. Any hardship is self-imposed by their choice of use of this lot and their design. Even though the lot is expanded farther north toward the neighbors across the street it still hugs the ten-foot setback along the Cody's fence line, so the entire lot is not pushed forward it still hugs the ten-foot setback in the rear. The church has eliminated the trees in the middle of the lot and there is no lighting, while the high bright lights would have been inappropriate some low lights would prevent the lot from turning into a magnet for anybody who would be looking for an unoccupied dark space in the neighborhood. This lot is simply not necessary. The church has 101 parking spaces right now, which is almost 30 more than what the Code requires. In the event of overflow there is plenty of street parking because it is in the middle of a residential neighborhood. Cars parked on the street during an occasional overflow is better than a permanently paved lot that is a permanent eyesore in the neighborhood. The church has the option of providing

reserved visitor parking on the front row if they are concerned about hospitality or for the elderly. Denying this parking lot would actually not prevent the use of the building or the granting of any kind of Certificate of Occupancy so it would not rise to anything above a mere inconvenience. This is not an isolated encroachment into this residential area, there has been a billboard recently, there is this parking lot. When the Special Exception was first granted there was much more minimal parking on this lot, so the parking lot has expanded quite a bit over the years. The rhythm of a treasured residential neighborhood like the Codys can easily be disrupted ruining the residential character. The Code is designed to protect that character, so for that reason she would ask the Board to deny yet again this plan today.

**Gloria Cardamone**, 3639 South Louisville, Tulsa, OK; stated she lives directly west of the church, and she purchased her property in 1985. She is opposed to this request. She wanted to raise her children there and she has raised her grandchildren there. She loves her home. The backyard elevation is about 20 feet above the proposed site and she does not want to look at concrete especially in the winter when all the leaves on the trees are gone. And because all the trees on the subject property were taken down she gets a direct view of the back of the church and a lot of the parking lot. She is opposed to seeing anymore. Two years ago, when this motion was denied she has been watching to see what the parking lot looks like and she would say there have probably been no more than two or three times when every parking space of the original parking lot was full. Ms. Cardamone stated she has an issue with the landscaping. She thinks the church has done a good job with what exists now, however, the addition of another parking lot without proper lighting would be a security risk. The church never came to the neighbors to speak with them about what they wanted to do and that feels wrong. Obviously that property is theirs to do with as they wish, however, to take those trees down without any regard to the impact it would have on the neighborhood seems disingenuous. For that reason, and many others, she is opposed to the parking lot.

Mr. Van De Wiele asked Ms. Cardamone if there had been issues with the subject property being an open grass area in the last year or so. Ms. Cardamone stated that she has had damage done to the fencing in the back; some of the damage was weather related but she knows there has been trespassing.

**Chris Medrano**, 3640 South New Haven, Tulsa, OK; stated the first time he came about the subject property was when the shed was placed in the middle of the lot. At that time there was someone who protested the placement of the shed, so the shed was moved in effort of being cooperative with the neighbors. When he came before the Board the first time he was asked if he had met with the neighbors. At that time, he had not met with the neighbors before actually attending the Board of Adjustment meeting, so he took that counsel and called INCOG and asked them to provide a mailing list so the church good send to those exact same people and have a meeting. One of the items discussed was lighting because it was a concern at one time, so rather than installing lighting the church left it out. The church is happy to install something that will work for the neighbors, but there has not been much communication. This time the church wanted to make sure that there were no surprises for anyone; he spoke to Ms.

Cody at her house about what was going to happen. The church did send out a flyer to addresses that are on the streets that surround the church and on the street behind the church. There were less than five people that showed up for that meeting. The church has tried to make an effort to collaborate together with the neighbors and changes have been adapted. The church cannot do more than extend the offers and options to do that.

Ms. Ross asked Mr. Medrano to respond to the statements about the current church parking lot only fills up about two or three times a year. Mr. Medrano stated that it comes from the church being the neighborhood for so long and having the respect for the residents around the church. The church being responsible, rather than putting the strain and burden on the neighborhood the church has leased a space off site for the young people to meet.

Ms. Ross asked Mr. Medrano how often a year does the church parking lot completely fill up to where the church has to utilize street parking or some other type of parking off site. Mr. Medrano stated this particular parking lot does not fill up more than a few times year because the church has removed some of the people that meet there so as to not burden the neighborhood.

Mr. Van De Wiele asked Mr. Medrano if it was the churches desire to bring those off-site worshippers to the church to worship. Mr. Medrano answered affirmatively, and there are other activities throughout the week, so the young people are still part of the congregation. The church is not designed to be a mega church. Some churches want to grow and expand and build their church families. These families limit themselves between 500 and 600 in membership which equates to between 200 to 300 in actual attendance. Because there is no paid ministry that gives an opportunity for the lay ministers, Sunday school teachers, nursery care givers, and everyone to have a purpose. As the church grows they break off into units so that is why there is more than one congregation meeting at the church. In order for the church to get the first group through their three hours of worship they have to overlap, and when they overlap in their time, while one person is in the chapel having their first hour of worship service there are people in the classrooms completing their third hour of worship service. Those congregations are not a mega church so there are not 1,200 people seating at a given time.

Ms. Radney stated that she was not on the Board in 2016 and noticed in the minutes there was a lot of discussion about trees and habitat for owls. She thought one of things suggested by the Board was that the church would work directly with the neighbors about retaining those trees and the habitat, and from the looks of it they are all gone. Mr. Medrano stated there were two things with that. One, was the quality of trees that were there and the likely hood that the trees would survive construction around their canopies. The canopies were large and in order to do the manner of construction in building the parking it was a concern of killing the trees. Secondly, Ms. Harmon gave the audience a great education about the owls and during that time Ms. Harmon had asked for a waiting period of 60 days or until September 1<sup>st</sup>. Those trees

were taken down because they would have died with the parking lot being laid on top of their root system and the timing was to work with the owls, so they didn't get hurt. The trees that were removed will be replaced so those trees will provide the visual screen, and the site will have a requirement to go before the flood control board. The church had a site drain added that is designed to handle runoff across the property.

Ms. Back stated that she was on the Board when the church came before the Board, and there seems to be a difference of ten spaces being discussed. How much hair splitting does the Board have to do to figure this out. Here we are again arguing over ten spaces and she is disappointed in both sides because this should not have come to the Board of Adjustment again. Mr. Medrano stated that he disagrees to one point, the Board put a lot of burden of responsibility on the applicant to work with the neighbors. The church offered opportunities in the past few weeks to meet together to strategize, but there has never been more than a handful of people attend the meetings. Ms. Back stated she sees the changes and she knows the neighbors are opposed, but she still sees 38 spaces but at what point is the line drawn. Mr. Medrano if boycotting is the only thing to hold up a process then there is not much of a negotiation if both parties are not willing to talk.

**Rebuttal:**

**Stephen Schuller** came forward and stated that all the development will be subject to compliance with all the City's codes. The City will make sure that stormwater runoff is controlled and directed away from property owners. This church has kept reducing its plan every time they come before the Board, and still the protestants want to talk about trees that any property owner would be able to remove. If someone wanted to build a house on either of the subject lots, there is nothing in the Code that says there has to be a single tree planted. So, what there is here is a church that is willing to plant a lot of trees and add to the character of the neighborhood. Mr. Schuller thinks this landscape plan offers more than sufficient compensation for the unhealthy trees that were lost.

**Comments and Questions:**

Mr. Van De Wiele stated that he spoke with Ms. Blank this morning about this case because his memory was that there was an alternate proposal by a portion of the neighborhood, and in the minutes of last case the neighbor's plan has 28 spaces, a six-foot opaque fence, larger trees, shorter light poles, four-foot brick screening along 36<sup>th</sup> Street and prairie grass instead of sod. At that point, there was at least an alternate suggestion being posed and the amount of concrete that is being proposed from last time to this time there is a reduction of four parking spaces which 3,000 feet less of concrete this time, there are also more trees, and fewer ingress and egress points. Those comments and the discussion in the minutes it was stated by Ms. Harmon that what the neighbors have is a compromise that is reasonable and does not place a substantial burden on the church and the lines of division of the Comprehensive Plan, obviously will not be injurious to the neighborhood. Mr. Van De Wiele stated that at that point in his mind two years ago there was discussion about the difference between the neighbor's plan and something that was worse than today's church plan. The applicant has come back closer to the neighbor's plan. He still thinks there are ten spaces being

discussed, and he does not think there would be a compromise agreeable to either side. To him this is a reasonable use for this church. He was in favor of it two years ago and he takes the applicant at their word that they want to find themselves in need of additional parking. Mr. Van De Wiele thinks this is a fine plan to address that and he thinks there is a hardship from the relative closeness of the houses to the west and to the south to justify pushing it closer to the street, and there is landscaping in front of it, so he would be in support of today's request.

Ms. Back stated that she too was here for the last case. She understands that the church wants to bring back their parishioners back to the main church, so they can all be under the same roof. She thinks the church did listen to the Board and reached out to the neighbors to talk. Ms. Back stated she can support this request.

Ms. Ross stated she was not here for any of the prior cases, so she feels a little bit behind as far as knowledge, but she is looking at this with a fresh set of eyes which could be an advantage. What she sees is a plan to plant a lot of trees and it looks like a nice design. Ms. Ross thinks this is something that everyone could have met in a room and sat down and talked about and worked out some solutions that would have been agreeable to everyone. Ms. Ross stated she does not have any issues with the design and she thinks it is a permitted use and she can support the request.

Ms. Radney stated she would not vote to approve this request. It isn't that she thinks this isn't a fine parking lot and based what she can see in the records it is an improvement over what had been submitted before, but she does think it is out of keeping with the Comprehensive Plan. If these particular owners did not already own this land a person can easily imagine an investor would have built new structures, and possible multi-family structures, in the location. She does not see anything about this particular spot that says it is ideal for a parking space. All other facts notwithstanding she would not support the request.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 3-1-0 (Back, Ross, Van De Wiele "aye"; Radney "nay"; no "abstentions"; Bond absent) to **APPROVE** the request for Special Exception to allow a religious assembly use in the RS-3 District to permit the expansion of a parking area for an existing church (Section 5.020); Variance to allow a parking area within the required street building setback (Section 40.320), subject to the conceptual plans shown on LS1.00 Planting Plan Packet dated July 25, 2018. The Board finds the hardship to be that the topography of the lot and the proximity of the lot to move it farther away from the houses and closer to 36<sup>th</sup> Place. 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:

**E305 & N165 W180 E485 BLK 10 LESS N25 THEREOF FOR ST, 36TH STREET SUBURB, City of Tulsa, Tulsa County, State of Oklahoma**

**22507—Shannon Bolain**

**Action Requested:**

Variance to allow a detached accessory building to exceed 18 feet in height and to exceed 10 feet in height to the top of the plate (Section 90.090-C.2); Variance to allow a non-all-weather parking surface material (Section 55.090-F). **LOCATION:** 8021 South 26<sup>th</sup> Avenue West **(CD 2)**

**Presentation:**

**Shannon Bolain**, 8021 South 26<sup>th</sup> West Avenue, Tulsa, OK; stated she lives on the country side of Tulsa Hills, and she has lived in the house for 13 years and she purchased the house this year; prior to the purchase of the house she was a tenant. When she was renting the property through John Hausam she was told the house was located in the County but came to find out the house is in the City. The house is located in an older neighborhood. Ms. Bolain stated that she has several e-mails from her neighbors supporting her request. Ms. Bolain stated just prior to purchasing the house she had bought a boat and a fifth wheel toy hauler. It was not until the permit process for the shop that she was told she was in a City of Tulsa regulatory flood plain. Her property is in an area where everyone has a shop, has a barn and has about two acres. The shop will be at least 100 feet away from any neighbor or any other structure. The southeast corner of the property is where she proposes to place the 40'-0" x 60'-0" pole barn with a 14'-0" x 60'-0" long lean-to for the camper to be parked under. The City of Tulsa has completely cleaned up from the new driveway she has made to the existing driveway that was there before, and they have deepened and re-rocked the ditch line. Ms. Bolain stated she will be deepening and widening Nickle Creek as she cleans it out.

The house has never flooded in the 13 years she has lived in it. Her insurance agent told her the house was located in a FEMA "X" Plan Area so there is a 1% chance of a 500-year flood.

Mr. Van De Wiele asked what the two structures are on the east line of the property line. Ms. Bolain stated it is one big barn.

Mr. Van De Wiele asked Ms. Bolain about the 15'-7 1/8" building height stipulated on the building specs and wanted to know why she needed an 18'-0" height Variance. Ms. Bolain stated that INCOG informed her she would need a 16'-0" top plate because the building would peak at 21'-0" and the lean-to will be about 14'-0".

**Interested Parties:**

**Jerry Lousch**, 2425 West 81<sup>st</sup>, Tulsa, OK; stated he lives on the east side of the subject property. Mr. Lousch stated he plans to build a new house north of the existing house on his property and he would ask Ms. Bolain to move her barn to the west off the property line so it is not butting right up to the property line.

**Rebuttal:**

**Shannon Bolain** came forward and stated she cannot move her proposed building any farther than it is now because there is a creek in the center of her property. The fence line is being redone right and the building will be four feet away from the back fence and four feet away from the south fence. Ms. Bolain stated she will work with the neighbor any way she can, but she only has so much room to move in.

**Questions and Comments:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for Variance to allow a detached accessory building to exceed 18 feet in height and to exceed 10 feet in height to the top of the top plate (Section 90.090-C.2); Variance to allow a non-all-weather parking surface material (Section 55.090-F), subject to conceptual plans 7.16 and 7.17 of the agenda packet. The Board finds the hardship to be that this site is constrained substantially by a City of Tulsa regulatory flood plain, and the area is in an agriculturally used area and is zoned RS-3 instead of agriculture. 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:

**NE SE SE SW LESS W25 THEREOF FOR RD SEC 10 18 12 2.31ACS, City of Tulsa, Tulsa County, State of Oklahoma**

**22508—Ronnie Boswell**

**Action Requested:**

Variance to permit a dynamic display sign to be located within 200 feet of an R District (Section 60.100-F). **LOCATION:** 2508 South Sheridan Road East **(CD 5)**

**Presentation:**

**Ronnie Boswell**, Green Country LED, 3920 Chandler Street, Muskogee, OK; stated he would like to install a LED display for a muffler shop located at 2508 South Sheridan in Tulsa. The sign will be on an 8" single pole and there will be 14'-0" from the bottom of the sign to the ground. The total height of the sign will be about 17'-0" and will be located 42'-0" from one corner and 53'-0" from the other corner.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for Variance to permit a dynamic display sign to be located within 200 feet of an R District (Section 60.100-F), subject to conceptual plans 8.7, 8.8 and 8.11 of the agenda packet. The approval is contingent on the site meeting the sign budget which is to be checked and confirmed by City of Tulsa Development Services. The Board finds the hardship to be that this location is on a major arterial street and is a commercial use and is very close to meeting or exceeding the 200-foot distance, but also that normally residential uses

are not normally located on major arterial streets. 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 LESS BEG SWC TH N125 E 17.50 S55.70 W5.50 S69.30 W12 POB BLK 2, SOUTH SHERIDAN MANOR, BICKING TERRACE ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

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**OTHER BUSINESS**

**22481—Mark Capron**

**Presentation:**

Possible reconsideration of a Special Exception to permit a school use in an RS-3 District (Section 5.020-C). **LOCATION:** 3121 East Queen Street North **(CD 1)**

**Presentation:**

**Josh Miller**, George Kaiser Family Foundation, 7030 South Yale, Suite 600, Tulsa, OK; stated he is here today on behalf of Educare. As a result of the last hearing he has new information to provide that he would like to have the Board consider. There was an inability to answer the questions around the traffic plan and as a result he has found out that what was presented to the Board was actually a safety plan for bikers and walkers, not a full traffic study. He would like to have Traffic Engineering do a full traffic study as well as talk about the technical details of some of the questions the Board members had. In addition, maybe more importantly, is what the City and TPS is currently doing and will be doing in the future in regard to mitigation with the existing problems with

Clinton traffic. The information is all new information that the Board has not heard and that is why there is a request for reconsideration.

Mr. Van De Wiele stated in the event the Board approves the request for reconsideration he would implore upon the applicant to meet with the neighbors. It is obviously a traffic problem.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Back, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for Reconsideration of a Special Exception to permit a school use in an RS-3 District (Section 5.020-C) at the October 9, 2018 Board of Adjustment meeting; for the following property:

**NW SE SE LESS N25 FOR RD SEC 29 20 13 9.62ACS,SPESS-MARTIN ADDN, LOUARD HGTS ADDN, JEENS ADDN CORR, City of Tulsa, Tulsa County, State of Oklahoma**

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**NEW BUSINESS**

None.

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**BOARD MEMBER COMMENTS**

Mr. Van De Wiele announced that Ms. Clayda Stead, a former Board of Adjustment member, passed away on Saturday. She was one of the two ranking members when he joined the Board and was invaluable to him. She will be missed greatly. The funeral will be Thursday at 2:00 P.M. at Moore's Funeral Home.

Ms. Back stated that when she came on board she it was as a staff member, and she was one of the toughest members and you absolutely knew what you needed to provide for her in her case reports. She was awesome. Ms. Stead was a great mentor and a great friend. Ms. Stead resigned in 2012, she was a great addition to the Board and will be greatly missed.

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There being no further business, the meeting adjourned at 5:10 p.m.

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

\_\_\_\_\_  
Chair

DRAFT