

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1214
Tuesday, September 25, 2018, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Van De Wiele, Chair Back, Vice Chair Ross, Secretary Bond Radney		Miller 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 20, 2018, at 10:03 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

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 **Minutes** of the August 28, 2018 Board of Adjustment meeting (No. 1212).

UNFINISHED BUSINESS

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 3rd Street South (CD 4)

Presentation:

The applicant has requested a continuance to October 9, 2018 to wait for comments from Engineering Services.

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 **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 October 9, 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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NEW APPLICATIONS

22509—John Berry

Action Requested:

Special Exception to allow a Bed and Breakfast (short-term rental) in a RS-1 District (Section 5.020). **LOCATION:** 2630 East 67th Street South **(CD 2)**

Mr. Van De Wiele announced that there will be a time limit for each person to speak. The applicant will have ten minutes to present their case. Each interested party that wishes to speak will have three minutes. The applicant will be given five minutes at the end for rebuttal.

Presentation:

John Berry, 11424 South 82nd East Avenue, Bixby, OK; stated he would like to have a short-term rental. The house was purchased in January 2017 and remodeled for resale. Since the remodel he has been trying to sell the house since March 2017. The appraised value is between \$460,000 and \$490,000, and it was placed on the market at \$499,900. Since that time the house price has been reduced down to \$350,000. His concerns are for the neighborhood value that he accepts a reduced sale which would reduce property values in the neighborhood. There have been monthly costs of \$3,000 a month that are payments outside of the remodel. He has chosen to place the house on a short-term lease that way the house would not be vacant, because a distress sale would decrease neighborhood property values. Keeping the house occupied avoids the vagrants, squatters, break ins, etc. The house is consistently monitored and occupied. This request is literally to try to keep this house in good condition and not have a distress sale. Some of the concerns he has heard from the neighbors is this will affect property values. He found articles that stated differences. The “Sharing Economy and Housing Affordability Evidence from AirBnB” was published July 2017 states the correlation of the number of AirBnBs and the correlation of home values is in direct proportion. The more the number of AirBnBs the higher the property values in an area. This is outside of the other circumstances like population growth, job growth, and income trends. Mr. Berry stated he is trying to do what he can to keep this property in pristine condition and not have it become a distress sale.

Mr. Van De Wiele asked Mr. Berry if he was living in the house. Mr. Berry stated that he was not living in the house. Mr. Van De Wiele asked Mr. Berry where he lived. Mr. Berry stated he lived in Bixby.

Mr. Van De Wiele asked Mr. Berry if the structure off the back of the house depicted in the photo was the indoor pool. Mr. Berry answered affirmatively and stated that it is a 2,000 square foot indoor pool.

Ms. Ross asked Mr. Berry if he had house rules for the AirBnB. Mr. Berry presented a copy of his extensive list of house rules to the Board.

Mr. Bond asked Mr. Berry if he had spoken to the neighbors about using the house as an AirBnB. Mr. Berry stated that he has and some of the neighbors are in attendance today.

Mr. Van De Wiele asked Mr. Berry if any of the neighbors had stated they were in favor of the AirBnB use. Mr. Berry stated that he has had neighbors state they are in favor of the use. Mr. Berry stated that what he has heard is that the neighbors are enjoying the fact that the house is not vacant.

Ms. Ross asked Mr. Berry what his volume of rentals are on weekly basis. Mr. Berry stated that he has one or two per week for two or seven days.

Ms. Radney asked Mr. Berry if he had a demographic of the people who is attracted to the BnB, i.e., people from corporations on business or special events. Mr. Berry stated that he has had anything from a grieving lady who wanted to visit with her family to people that are here for a special event.

Interested Parties:

Tim Harris, 2707 East 67th Place, Tulsa, OK; stated he lives two properties away from the subject property. Zoning produces an expectation of property use, especially when a person purchases in an RS-1 District because the person assumes the area will remain single family and that is why the purchase was made in that specific area. Under that expectation the person is looking for peace, for quiet, a residential neighborhood, etc. The neighbors know one another, there is a neighborhood watch, and it is not a place where people do not know who is next door on a continual basis, and from week to week. Mr. Harris stated that under Title 42, Section 35-050.G, under lodging, it defines bed and breakfast as a detached house owner operated, offers overnight accommodations and meal service for compensation. This is a commercial enterprise going into an RS-1 District. Under Table 5-2 of the City Code, bed and breakfast falls under Lodging and lodging falls under commercial use in complete juxtaposition to the RS-1. Mr. Harris is asking the Board as a property owner, when he purchased his property he relied on the fact that it was zoned RS-1, a single-family residence, and he thinks the neighborhood should remain that way. Mr. Harris does not think this request is a good solution.

Ms. Ross asked Mr. Harris if he has had any issues or complaints with the guests that have stayed at the house in the last three months? Mr. Harris stated he has heard partying going on especially during OU games and it seems to be loud, and that has happened three times.

Ms. Ross asked Mr. Harris with the property being an AirBnB listed for sale versus foreclosure, which would he prefer? Mr. Harris stated that he knows the neighborhood and thinks it is just a matter of time before the house will sell to a family and does not think it will become a foreclosure. Mr. Harris stated that he certainly does not want it foreclosed for the price of his property and the value of his property, but again he does not think this is a viable solution to the applicant's inability to sell the house.

Dr. Michael Weisz, 2625 East 67th Street, Tulsa, OK; stated he is the spokesperson for the other members of the cul-de-sac. Dr. Weisz stated that he and his wife have lived in the neighborhood since 1991. This has been a traditional neighborhood. Dr. Weisz stated he met Mr. Berry when he purchased the house and welcomed him to the neighborhood, and never thought he would turn the house into a bed and breakfast. There is another house for sale in the neighborhood and it was being shown, and the person looking told him that the subject house being a B & B concerned them. Dr. Weisz is worried that this will destabilize the neighborhood, including parking and an increase in crime. The residents have no idea who will be in the house at any given time. Any bed and breakfast will be detrimental and is not acceptable. A traditional bed and breakfast has a person that lives on the premises, and the applicant has stated that he does not live in the house. It makes no sense to him that the Board would allow a business in the middle of a traditional neighborhood where neighbors develop relationships, trust, and friendship. Opening a bed and breakfast business in the neighborhood is not in harmony with the spirit and intent of the Zoning Code and will be injurious to the neighborhood. The residents request the Board deny the requested Special Exception.

Michael Levinson, 2519 East 67th Street, Tulsa, OK; stated he lives at his stated address and is building a house located at 2551 East 67th Street. He also represents his brother who lives on 67th and Birmingham and representing his father's company who has a significant footprint in the neighborhood. Mr. Levinson stated that they are adamantly against this request. This is a residential neighborhood and has been around for 50 years. There is no reason there should be a bed and breakfast in the residential neighborhood. Everyone knows their neighbors and they know who they are living with. This is not a commercial property. If the Board approves this request, then basically it is opening up a motel with a 2,000 square foot indoor pool in the neighborhood. It will not be out of town people coming to Tulsa for business, it will be people that want to do things in this house that they cannot do in their own house. Mr. Levinson stated that he does not feel comfortable with a motel down the street from his house.

Jeff Bertram, 2612 East 69th Street, Tulsa, OK; stated he has lived in the neighborhood for 21 years and he does not want a business or an AirBnB in the neighborhood. The neighborhood needs to stay as houses and not hotels.

Diane Peacock, 6726 South Atlanta Avenue, Tulsa, OK; stated the Williamsburg neighborhood was started in the 1970s and it is a dignified old neighborhood. A lot of people moved into the neighborhood to raise their families and they have stayed there. The Williamsburg neighborhood is turning over because the older residents are moving out and newer families are moving in. The neighborhood is under duress because it is fighting factions from all sides; i.e., the apartment complex installing a huge new cooling system that is loud. The neighborhood does not need a business in the neighborhood, it needs to be allowed to turn over and attract the young families. Ms. Peacock asked the Board to not allow this business in the neighborhood.

Ron Ricketts, 2732 East 68th Street, Tulsa, OK; stated he lives two or three lots away from the subject property. Mr. Ricketts stated that Mr. Berry opened the bed and breakfast without obtaining a Special Exception. On June 5th he was given a citation requiring him to suspend the bed and breakfast operation until he received a Special Exception, and Mr. Berry has continued operation of the bed and breakfast through June, July, August and September. Mr. Ricketts stated it is inconsistent with the neighborhood to have a bed and breakfast, and within a square mile he has no knowledge of any bed and breakfast being operated. Housing prices in the area range from \$3 million dollars to \$500,000, and new houses are being built in the area. Mr. Ricketts urged the Board to deny the requested Special Exception.

Char Stone, 2626 East 67th Street, Tulsa, OK; stated she has lived in her house for 42 years and is next door to the subject property. Since the original owners passed away the house has been under constant remodeling and leasing for sale, and some of those people were really disruptive. Ms. Stone stated she has not experienced any problem with the activity next door. It has been a relief to have some activity instead of having a vacant house. The house has never looked better. There has only been one incident before Mr. Berry modified his contract where the guests had a party. Ms. Stone stated that it has been a positive experience for her. Since Mr. Berry is not planning on keeping the house the bed and breakfast would be a temporary thing. Ms. Stone can sympathize with the concern about property values because it is a concern of hers, but she has not found any evidence that a B & B would lower the property value. Ms. Stone hopes the Board will consider her point of view as they make their deliberation.

Jesse Partain, 2726 East 67th Place, Tulsa, OK; stated he has moved all over the United States and chose to come back to Tulsa because he was able to move to a property that was stable and has been so since 1986. Mr. Partain stated that most of his concerns have already been voiced so he will not repeat them, but there is absolutely no way that it is justified to encroach on the neighborhood a private benefit of a single property owner. Mr. Partain stated it is not up to the Board to help the applicant sell his property or to solve his economic problems. This will impact everyone within a mile of the subject property, and it should not be permitted.

Dr. Stacy Clettenberg, 2512 East 69th Street, Tulsa, OK; stated she works at Oklahoma University and is a resident of the Williamsburg Addition. She is interested in this subject and visited Mr. Berry's website. What she found on the website this B & B can have ten guests on a night, so the parking in the cul-de-sac is problematic with ten guests. The rules are on the website, but this is an owner that is not on site. There is a keyless entry into the house, so the guests do not have to meet Mr. Berry to stay at the house. The house is in an area that is zoned for residential and this is an unmonitored business with a large number of people who can stay per night. This is an issue. Dr. Clettenberg stated she wants to protect the neighborhood and she wants the City of Tulsa to protect the zoning that it has provided. She would also urge the Board, the City or whoever to establish rules about this as New York City did. New York City had such a problem with this that it has now stated that it is illegal to advertise or rent an entire

apartment or AirBnB or other like platforms for less than 30 days unless the owner lives near the house or in the house. Dr. Clettenberg urges the Board to take some of that into consideration because this can't be the first time this has come up and it won't be the last time. Dr. Clettenberg stated that when she looked at Mr. Berry's calendar, it is not just one or two nights a week. In the upcoming weeks it is five or six days a week marked out already on the calendar on the website. She would urge the Board to consider the neighborhood's concern about the change in lifestyle this would mean for them.

Jeannie Cue, Tulsa City Council, 175 East 2nd Street, Tulsa, OK; stated this is a wonderful neighborhood that she has been involved in with several different issues. The complaints she has been receiving over the last three months about cars, people coming, and the pool tempting young people so without someone living there the applicant does not know who he is renting to. There have been parties at the house and the Police have been called to the house, and it has been an issue for the community. Ms. Cue stated that City Council is looking into this and there are some guidelines, and she thinks this should not be supported. When a person moves into a neighborhood they have an idea what the quality of life is in the neighborhood, then in comes a business that has a pool that attractive to teenagers that it becomes an event center. Ms. Cue stated that because there are no rules in place she thinks this is not suitable for the neighborhood. Ms. Cue stated with the Police presence being more active, the complaints, issues of debris being thrown in the yards, and an increase in complaints since the bed and breakfast has been operating illegally she does not think this is something that is for the neighborhood. She hopes the Board will consider the neighbors and their quality of life.

Rebuttal:

John Berry came forward and stated he understands the resident's concerns, but he is trying to add everything that is in the best interest of the community and the neighborhood so there is no distress sale. The house has been on the market for one year and ten months and he is willing to take offers. Mr. Berry has not ever heard about the Police being called to the property and has never been cited. Mr. Berry stated that he has given the neighbors his cell phone number and has never been called once. There was one issue about cars parked in the neighborhood, but no driveways were blocked and there were no disturbances in the neighborhood. That is the only time he has heard about anything and he was not called directly. He is not asking to change the RS-1 zoning. There are five parking spaces including two in the garage and three on top of the driveway, so he has not been aware of any issues nor has he been called about issues.

Mr. Van De Wiele asked Mr. Berry if he had looked into a long-term rental. Mr. Berry stated that is a possibility but at the same time how does he sell a house that is a long-term rental as well. The house is easier to handle when it is filled with nice furniture and decorated as it is now than if there are renters that have their personal belongings in the house.

Mr. Van De Wiele asked Mr. Berry about the letter he received from Working In Neighborhoods stating that he was to stop until he received a decision about the Special Exception. Mr. Berry stated he called the City and was told to file the application for the Special Exception and it would be handled after the hearing.

Mr. Van De Wiele asked Ms. Blank if that was a typical response from the City. Ms. Blank stated that it probably does happen, but she does not know for sure.

Ms. Radney asked if the notice was a "cease and desist" notice. Mr. Van De Wiele read the terminology from the City notice on page 3.10 in the agenda packet about all commercial use associated with the lodging of less than 30 days is required to be removed until a zoning clearance permit is issued, and a Special Exception is granted by the Board of Adjustment. Ms. Miller stated that the way the City operates is if the applicant is in the process to remedy the situation cited they won't act again as long as the applicant is in the process.

Ms. Miller stated there will be a meeting tomorrow about the license requirements for short-term rentals; there is draft language for the Code regarding this issue. At one point she was told that Code Enforcement were not responding while the language and other process is pending unless it becomes elevated as this case has, then they will act upon it.

Comments and Questions:

Mr. Bond stated he thinks the Board needs to be consistent. It has been brought up several times, the Board has a Zoning Code which does not directly address AirBnB and short-term rental. The Board is dealing literally with a bed and breakfast situation and the Board has to do their best. What the Board has done in the past is look to the Code. Is it in harmony and spirit of the Code? Is not injurious to the neighborhood? The has to be permission sought to do this, this is not a use by right issue. There cannot be a commercial enterprise within a RS-1 District. The Board has always weighed their decision on the neighbor's opinions, and in this case, it is clear that the neighbors believe this would be in violation of the spirit of their neighborhood and the expectations with which they purchased their home. He looks forward to update regulations on this, it is important the Board maintain consistency with their decisions about bed and breakfasts. Mr. Bond stated that in spite of this issue being contentious it says a lot of great things about the neighborhood, people care. It is a community. It is a neighborhood and people are concerned about that. Mr. Bond stated he cannot support this Special Exception.

Ms. Back stated that what the Board looks at, on a case by case basis, is where is this located in the neighborhood? Is it close to an arterial street or is it in the middle of a developed residential neighborhood? This particular property is in the middle of a developed residential neighborhood. She drove the neighborhood and it is beautifully maintained and she has heartburn about it being established in the middle of a developed neighborhood.

Ms. Ross stated that she is undecided about this. She does not think the Board has been consistent in their decisions, it is about a 50/50 split. The Board just approved one recently in a well-established mid-town neighborhood with a lot of concerned residents in attendance but based on the presentation and the facts the Board granted the Special Exception. Ms. Ross stated she is a real estate attorney and is very familiar with the effects of foreclosure on homes and vacant properties have in neighborhoods. The reason she is torn about this is because it will not be good for the neighborhood either. She understands that the residents do not want people in and out of a house that is in the middle of the neighborhood. She is concerned about the resident's property values. She is concerned about the applicant not being able to sell the house and not going into foreclosure.

Ms. Radney concurred with the remarks that everyone has made. The only thing she would add is that she is concerned about the size of the property, and the adjacent pool. That does create a condition that might be more likely to be abused by people who want to use it for a special event or special gathering. Ms. Radney does not see the data that the residents are going to see diminished property values. It is a sharing economy and it is based on reputation. The maintenance of the house is critical to actually make any revenue from the house, and if the visitors are not having a positive experience that will be reflected in the ratings. Ms. Radney stated she too is undecided as well. The one thing that would persuade her to vote no is that the Special Exception remains with the property.

Mr. Van De Wiele stated one of the reasons the Board approves these Special Exceptions on a short-term basis is because there have been discussions about Zoning Code amendments for at least a year now. On the foreclosure issue, there is no doubt that foreclosure sales hurt nearby home values, but he does not think it is a fair binary choice of do you want an AirBnB or do you want a foreclosure sale. That places people in place where they don't have a choice. Mr. Van De Wiele stated that the AirBnBs he has stayed in and the AirBnBs he has seen they are the nicer maintained properties. There are a couple of long-term rentals in his neighborhood and they are the least maintained properties on a block. Most of the AirBnBs are better maintained, better decorated because of the revenue they generate. As far as the consistency with which the Board has acted, he is less swayed by lots of angry neighbors but the one thing he always looked at is the location of the property in relation to the neighborhood and the presence or the lack of presence of an owner or proprietor of the business. Those that are in the middle of a neighborhood are less agreeable to him. Those do not have an on site or a very nearby care taker, overseer have been less inclined to receive his vote. The two bed and breakfasts that have been approved over the last month, one the people actually lived in the house and were renting out one room and the other had a family member living next door. Mr. Van De Wiele thinks these have the risk of being detrimental to a neighborhood and for those reasons he will not support this request.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-1-0 (Back, Bond, Radney, Van De Wiele "aye"; Ross "nay"; no "abstentions"; none absent) to **DENY** the request for a Special

Exception to allow a Bed and Breakfast (short-term rental) in a RS-1 District (Section 5.020). The Board finds the requested Special Exception will not be in harmony with the spirit and intent of the Code and will be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LOT 6, OAKWOOD, City of Tulsa, Tulsa County, State of Oklahoma

22510—Robert Briley

Action Requested:

Variance of the minimum open space per unit requirement; Variance of the rear setback requirement in an RS-3 District (Section 5.030, Table 5-3). **LOCATION:** 204 East 27th Street South (CD 4)

Presentation:

Phillip Bashaw, 204 East 27th Street, Tulsa, OK; stated he would like to have an add on to the house. He and his wife purchased the house in May 2017 and has improved the house over the past 18 months. In a two-block area there are several houses that have violations of the rear setbacks and/or the open space requirement. He understands and respects that there needs to be consistency in the City because that what drives improvement and beautification and growth in the community. The request is due to an improvement to the house. It is a great house and it does not fit into the typical Maple Ridge aesthetic; it is a 25-year-old house and has an open floor plan. The use is for an outdoor living area.

Mr. Van De Wiele asked Mr. Bashaw to describe what he is building and if it is attached to the house. Mr. Bashaw stated the back yard of the house faces due south and the extension of the covered roof would go due south and it will have a fireplace for a covered patio.

Mr. Van De Wiele asked Mr. Bashaw if he had spoken with his neighbors. Mr. Bashaw stated that he speaks with the neighbors on a daily basis.

Interested Parties:

Paige Bashaw, 204 East 27th Street, Tulsa, OK; stated the neighbors behind their house have let them use their back yard to bring equipment in to build the pool that is next to the proposed patio. They were more than happy to see the improvements to the house.

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

Variance of the minimum open space per unit requirement; Variance of the rear setback requirement in an RS-3 District (Section 5.030, Table 5-3), subject to conceptual plans 4.15 and 4.16 of the agenda packet. The Board finds the hardship to be the existing character of a historic neighborhood before the Comprehensive 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 13 BLK 17, SUNSET TERRACE, City of Tulsa, Tulsa County, State of Oklahoma

22512—Bryan Adams

Action Requested:

Variance to allow a detached accessory structure to exceed 40% of the floor area of the principal residential structure (Section 45.030-A). **LOCATION:** 14710 East 15th Place South **(CD 6)**

Presentation:

Bryan Adams, Morton Buildings, 14710 East 15th Place, Tulsa, OK; stated he represents the home owner. The current house is on 2 ¼ acres and is 2,183 square feet. The proposed accessory building will be 1,440 square feet. The hardship is that the accessory building would better utilize the existing property, and it is nothing out of the normal for the neighborhood. The neighborhood is located in the city limits but it is a larger acreage, and there are horses and cattle on the surrounding properties.

Mr. Van De Wiele asked Mr. Adams if the existing outbuilding would be removed. Mr. Adams answered affirmatively.

Mr. Van De Wiele asked Mr. Adams if the driveway from the new building to the existing driveway would be asphalt or concrete. Mr. Adams answered affirmatively.

Mr. Van De Wiele asked Mr. Adams if there would be any business ran out of the proposed building or renting any portion of it as living quarters. Mr. Adams stated the building is a hobby building for the home owner and storage for his lawn equipment.

Ms. Ross asked Mr. Adams what type of building materials would be used in the construction of the building. Mr. Adams stated the proposed building is a Morton Building which is a wooden post frame with steel siding and steel roof; it is not the average pole barn.

Interested Parties:

Warren Higginbotham, 14710 East 15th Place, Tulsa, OK; stated he is the home owner. The existing building will come down as soon as the proposed building is built. He plans to use the building for maintenance on his cars, as a wood shop, and he is attempting to raise bees so that equipment will be stored in the building also.

Mr. Van De Wiele asked Mr. Higginbotham how long he thought it would take to remove the old garage. Mr. Higginbotham stated that he thinks it will be down in less than six months.

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"; "abstaining"; none absent) to **APPROVE** the request for a Variance to allow a detached accessory structure to exceed 40% of the floor area of the principal residential structure (Section 45.030-A), subject to conceptual plans 5.15, 5.16, and 5.17 of the agenda packet. The Board finds the hardship to be that this particularly large lot is located within the City limits, zoned RS-3 but is set on a large rural lot area. The existing outbuilding will be removed within six months and after the completion of the new structure. There is to be no business run out of the building and the driveway will be concrete or asphalt. 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:

**S/2 NE NW SW LESS W330 & LESS N30 E330 FOR RD SEC 10 19 14 2.273ACS,
City of Tulsa, Tulsa County, State of Oklahoma**

22513—Richard Flaming

Action Requested:

Variance to reduce the side setback in an RS-2 District (Section 5.030-A).

LOCATION: 5344 South Toledo Avenue East (CD 9)

Presentation:

Richard Flaming, 5344 South Toledo Avenue, Tulsa, OK; stated he purchased the house in March and moved into the house in May. His former house was on one acre in Creek County where he had a workshop and he used that to park his collectible car inside. He would like to extend the existing garage. The house is placed on an angle on the subject property and 54th Street has been abandoned so there will still be a nice sized greenbelt around the house.

Ms. Ross asked Mr. Flaming if he would be expanding the driveway. Mr. Flaming stated that he will expand it a little, so he can access the garage door, but the expansion will only be front of the garage not where the driveway meets the street; he will not be changing the curb cut.

Mr. Van De Wiele asked Ms. Miller if there would be a driveway width issue in this case. Ms. Miller stated the new standards for driveway widths are effective in the Code now. Ms. Miller stated the Code looks at what is in the street setback. There is a standard for the width in the right-of-way and a standard for the width within the street setback.

Ms. Miller asked Mr. Flaming how wide his driveway is in front of his house. Mr. Flaming stated that it is about 17 feet and the garage has a standard 16-foot door with about 6" on each side of that, and he would like to add another eight feet making it about 24 feet. Ms. Miller stated that in RS-2 outside of the right-of-way in the street setback a home owner can go up to 30 feet in width.

Interested Parties:

There were no interested parties present.

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"; "abstaining"; none absent) to **APPROVE** the request for **Variance** to reduce the side setback in an RS-2 District (Section 5.030-A), subject to conceptual plan 6.15. The Board finds the hardship to be the odd shaped lot, the lot abuts the City drainage channel of Joe Creek, and the home orientation on the lot. The Board finds that the following facts, favorable to the property owner, have been established:

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

LT 6 BLK 3, TANGLEWOOD ADDN, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 2:25 p.m.

Date approved: _____

Chair