

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1209
Tuesday, July 10, 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		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 July 5, 2018, at 4:15 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the June 26, 2018 Board of Adjustment meeting (No. 1208).

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today. The new fifth member is being appointed and she will be at the July 24, 2018 meeting. Any motion will require an affirmative vote of three of the remaining four members. When there is less than a full Board the Board will entertain a request to continue agenda items to a later meeting date, at which all five members of the Board may be present. If an applicant or an interested party would like to postpone his or her hearing until the next meeting he or she could do so. The

audience nodded their understanding and no one came forward to request a continuance.

NEW APPLICATIONS

22471—Jody Cole

Action Requested:

Variance to permit an accessory building to exceed 40% of the floor area of the principal residential structure (Section 45.030-B); Variance to allow a detached accessory building that exceeds the maximum height requirement (Section 90.090-C.2). **LOCATION:** 237 Hazel Boulevard East **(CD 4)**

Presentation:

The applicant has requested a continuance to July 24, 2018; additional relief is needed.

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, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Variance to permit an accessory building to exceed 40% of the floor area of the principal residential structure (Section 45.030-B); Variance to allow a detached accessory building that exceeds the maximum height requirement (Section 90.090-C.2) to the July 24, 2018 Board of Adjustment meeting; for the following property:

ALL LT 18 W 20 LT 19 BLK 12, SUNSET TERRACE, City of Tulsa, Tulsa County, State of Oklahoma

UNFINISHED BUSINESS

22458—David Lynch

Action Requested:

Special Exception to permit a carport in the street setback and front (street) yard to exceed 20 feet in width and to exceed the minimum side setback requirements (Section 90.090-C.1). **LOCATION:** 8539 East 34th Street South **(CD 5)**

Presentation:

David Lynch, 8539 East 34th Street, Tulsa, OK; stated he built a new carport.

Mr. Van De Wiele asked Ms. Ulmer to display page 2.11 on the overhead projector, and he asked the applicant that picture represented the as constructed carport. Mr. Lynch answered affirmatively.

Mr. Van De Wiele asked Mr. Lynch if he had anything from any of his neighbors. Mr. Lynch stated that the people he has heard from like the carport.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit an 18'-0" x 27'-0" carport in the street setback and front (street) yard, and it is to be 11'-0" from the side lot line, subject to conceptual plan 2.6 and 2.7 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 18 BLK 14, LONGVIEW ACRES 2ND, City of Tulsa, Tulsa County, State of Oklahoma

22461—KKT Architects – Nicole Watts

Action Requested:

Special Exception to allow a dynamic display in an RS-4 District (Section 60-050.B); Variance to allow a dynamic display to exceed 32 square feet in area (Section 60-050.B.2). **LOCATION:** B/t East Independence Avenue North & East Latimer Street North and B/t North MLK, Jr. Boulevard & North Main Street **(CD 1)**

Ms. Back recused and left the meeting at 1:09 P.M.

Presentation:

Jed Ballew, KKT Architects, 2200 South Utica Place, #200, Tulsa, OK; stated he is the project manager for the new montessori elementary school, Emerson. The street the sign will be located on is MLK Boulevard, which is an arterial street and it abuts a multi-family district. To the south is OSU – Tulsa and some vacant land that will probably be

developed with a higher density in the future. Mr. Ballew thinks this request is appropriate for the neighborhood.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-1 (Bond, Ross, Van De Wiele "aye"; no "nays"; Back "abstaining"; none absent) to **APPROVE** the request for a Special Exception to allow a dynamic display of 38 square feet in an RS-4 District (Section 60-050.B); Variance to allow a dynamic display of 38 square feet in area (Section 60-050.B.2), subject to conceptual plans 3.6, 3.7, 3.8, 3.9, 3.10 and 3.11 of the agenda packet. The Board finds the hardship to be the location to the nearest arterial street. 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:

ALL BLKS 19 & 20 & W/2 VAC BOSTON AVE ADJ BLKS 19 & 20 & VAC KING ST ADJ BLK 19 & 20 & N/2 VAC JASPER ST ADJ ON S BLK 20; LTS 17 THRU 22 & S/2 VAC JASPER ST ADJ ON N & E7 PRT ADJ TO ALLEY LESS S29.5 LT 17 FOR ST BLK 21; ALL BLK 2 & E/2 VAC BOSTON AVE ADJ BLKS 2 & 3 & VAC KING ST ADJ BLKS 2 & 3 LESS E40 THEREOF & ALL BLK 3 LESS E40 LT 1 & LESS LT 24 BLK 3 & N/2 VAC JASPER ADJ ON S BLK 3; LTS 1 THRU 6 & S/2 VAC JASPER ST ADJ ON N & W/2 VAC BOSTON AVE ADJ ON E & W7 PRT ADJ TO ALLEY LESS

S29.5 LT 6 FOR ST BLK 21; LTS 1 - 24 & S/2 VAC JASPER ST ADJ ON N LESS E12 BLK 4, KIRKPATRICK HGTS, BURGESS HILL ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Back re-entered the meeting at 1:14 P.M.

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NEW APPLICATIONS

22447—John Watchous

Action Requested:

RECONSIDERATION of a Special Exception to allow a Personal Improvement Use in an OM District (Section 15.020). **LOCATION:** 1222 South Lewis Avenue East **(CD 4)**

Presentation:

The applicant was not present.

Mr. Van De Wiele asked if INCOG had communicated with the applicant. Ms. Ulmer stated she has spoken with the applicant and he is in agreement with the new condition.

Ms. Blank reminded the Board that in the previous motion there was a condition that the applicant submit an updated legal and she is not sure that has been done. She would like that condition to also be part of this motion.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 3-0-1 (Back, Ross, Van De Wiele "aye"; no "nays"; Bond "abstaining"; none absent) to **MODIFY** the prior approval to remove the provision allowing for the fortune telling use for what referred to ask the pink house on the corner. Also, there is a requirement that the applicant submit an update legal description for the areas specified in the previous case; for the following property:

LTS 3 & 4 BLK 7 & PRT VAC RR R/W BEG 86.51SE MOST NLY NEC LT 4 BLK 7 TERRACE DRIVE ADDN TH SE53.61 N23 W12.75 NW15.89 NW12.52 POB SEC 7 19 13 .005AC, TERRACE DRIVE ADDN AMD SUB B2-3&7, TERRACE DRIVE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Bond abstained.

22464—Hoby Ferrell

Action Requested:

Variance to permit an accessory building to exceed 30% coverage of the floor area in the rear setback (Section 90.090-C-2). **LOCATION:** 1215 East 20th Street South (CD 4)

Presentation:

Hoby Ferrell, Ferrell Properties, 2501 East 15th Street, Tulsa, OK; stated he represents the Cannons, the owners of the subject property. The Cannons have owned the property as an investment property for some time, and now they want to make it their primary residence. The garage is currently a two-car garage with a bonus room on the side, and they would like to enlarge the garage 15 feet deep by 13 feet wide. The addition will be architecturally correct for the neighborhood; the same siding, trim, roof pitch and identical to the original structure.

Mr. Van De Wiele asked Mr. Ferrell to state the hardship for the Variance request. Mr. Ferrell stated the garage meets the zoning for RS-2 but RS-3 requires 30% of the back 25 feet. The addition is what takes it over about 200 square feet. The lot is large, 150 feet deep and 100 feet wide.

Mr. Van De Wiele asked Ms. Ulmer if she knew the percentage that the coverage would be over. Ms. Ulmer stated the allowed is 600 square feet and the new addition is 722 square feet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Bond stated the old garage was probably built in the 1920s and designed with the Zoning Code in consideration and he thinks that is a valid hardship.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to permit an accessory building to exceed 30% coverage of the floor area in the rear setback (Section 90.090-C-2), subject to conceptual plans 5.13, 5.14 and 5.15 of the agenda packet. The Board finds the hardship to be the design and building of the original garage predates the City of Tulsa Zoning Code. The architecture is to be compatible with the existing structure; building materials, roof line, design, and historic spirit of the existing neighborhood. 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, MAPLE HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22465—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-B). **LOCATION:** 3225 West 80th Street South (CD 2)

Presentation:

Bryan Adams, Morton Buildings, 2400 West 15th Street, Broken Arrow, OK; stated he represents Matt Kirkland. The lot size is 4.81 acres and the percentage being asked for is about 70% in comparison the principal residence. Mr. Adams presented pictures of houses in the area that have accessory structures and are larger than the residence on the various properties.

Mr. Van De Wiele asked Mr. Adams what the building would be used for. Mr. Adams stated there will be a small apartment, about 800 square feet, and the rest will be used for farm tractor storage, implement storage, workshop and parking for a few cars.

Mr. Van De Wiele asked Mr. Adams who would be living in the apartment. Mr. Adams stated that an in-law would be living in the apartment.

Mr. Adams stated that to the north and the east there are tree lines along the property line shielding the proposed building from any neighbors. There were about 15 outbuildings on the subject property and they have been removed.

Interested Parties:

Matt Kirkland, 3225 West 80th Street, Tulsa, OK; stated the apartment will be used for a 62-year-old in-law who is in failing health, so they can be taken care of by family. Mr. Kirkland stated he purchased property 1997 and built the house in 2001. The property used to be a former church camp ground that had been used for decades. The City was taking abatement action against the property owners in 2013, and the property owners knew he was interested so he made them an offer and purchased the property, removed all the debris and trash, removed fences and took down existing buildings.

Comments and Questions:

Mr. Van De Wiele stated the amount of building coverage is a factor. The overly large size of the lot is also a factor. Mr. Van De Wiele stated he can support this request.

Ms. Ross agreed.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; 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-B), subject to conceptual plans 6.7 and 6.8 of the agenda packet. The Board finds the hardship to be an overly large sized lot and the combining of two lots. The apartment to be used on site will only be used for family and not on an independent living situation; it must be a dependent living situation. The drive to the new proposed building must be paved with an all-weather surface, concrete or asphalt, or something that meets the definition of all-weather surface. 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:

**NW SW SW SW LESS S25 THEREOF & SW NW SW SW SEC 10 18 12 4.081ACS,
City of Tulsa, Tulsa County, State of Oklahoma**

22468—Brad Brown

Action Requested:

Variance to reduce the minimum lot width in an RS-1 District (Section 5.030-A) to permit a lot-split. **LOCATION:** 2630 East 36th Street South (CD 9)

Mr. Van De Wiele announced that in cases where there are multiple parties that want to speak, the Board generally will place a time limit in place. What is generally done is 10 minutes for the applicant's presentation, and time will not be charged if the Board is asking questions. Each person that wants to speak will given three to five minutes. The applicant will have five minutes at the end for rebuttal. Mr. Van De Wiele asked that the people that wish to speak not repeat the comments from another interested party.

Presentation:

Brad Brown, 2440 East 22nd Place, Tulsa, OK; stated he represents the Greens for this request. His clients are neighbors and live in the vicinity and love Tulsa. They saw the property in 2016 in a dilapidated state and purchased it thus leveling the house. They attempted to sell the lot. Interested persons only wanted to know if the lot could be split. His clients thought it would be more aesthetically pleasing to split the lot down the middle rather a flag lot with a shared driveway which would not require a Variance. Mr. Brown stated there are other lots in the neighborhood that are non-conforming. The owners to the east and to the west are in favor of this request. The lot is unique because it is very deep. If it is split down the middle there would still be half acre lots, which is well within the minimum width requirement for an RS-1 lot. Mr. Brown stated that a substantial number of lots have been split at one point in time. 36th Street is a main thoroughfare and the driveways will be off 36th thus there would be no increase in the traffic flow into the neighborhood.

Mr. Van De Wiele asked Mr. Brown if he had any history as to how part of the neighborhood was rezoned to RE but the lots on 36th were zoned RS-1. Mr. Brown stated that he did not.

Mr. Van De Wiele asked Mr. Brown to state his hardship for the lot split. Mr. Brown stated that it is the depth of the lot. The lot is 284'-6" feet deep; it is approximately one acre in square footage and the location of it being on 36th Street which is a main thoroughfare. Mr. Van De Wiele asked Mr. Brown how the Variance addresses the hardship. Mr. Brown stated there will still be two half acre lots; it has to do with the location of the lot being on 36th Street. It has to do with the lots being across the street

being non-conforming. It has everything to do with the lot being zoned RS-1 in a non-conforming neighborhood that has been in existence prior to the Code.

Ms. Ross asked Mr. Brown if he had any examples in the RS-1 area where the lots are 75 feet or less. Mr. Brown stated that he did not have any of lots that were 75 feet or less, but he believed there are a few that are under 100 feet.

Interested Parties:

David Sturdivant, 2708 East 36th Street, Tulsa, OK; stated he lives about 600 feet east of the subject property. What he heard Mr. Brown state was that the hardship was the owners could not sell the property to developers as it is currently zoned. It is a more attractive sale opportunity if the property is split into two lots. Mr. Sturdivant stated that does not meet the spirit or intent of a Variance. Mr. Sturdivant stated the Zoning Code provides that Variances are intended to provide relief when the requirements of the Zoning Code render property very difficult or impossible to put to reasonable use because of some unique or special characteristic of the property itself. Mr. Sturdivant stated he purchased similar lot six years ago and developed a single-family house on it, which he currently lives in. Mr. Sturdivant stated that within the last 14 years there have been three houses built under the current zoning conditions. Mr. Sturdivant stated that it seems to him that the applicant is trying to circumvent a request to rezone the property. This is an existing neighborhood with areas of stability. Those two things are intended to preserve and enhance the existing single-family neighborhoods. Development activity in these areas should be limited to the rehabilitation and improvement or replacement of existing houses and small scale in-fill projects as permitted through clear and objective setback, height, and other development standards of the Zoning Code. Mr. Sturdivant stated that is not the intended use or the intent of the requested Variance. The hardship cited as set forth in the packet, that the platting of the property took place prior to the Zoning Code, that is not unusual. Lots of Tulsa properties were platted before the Zoning Code. The houses across the street are all within 96 feet in terms of width. The proposed split will make two lots that are 75 feet in width, which is a 25% reduction in the requirement. Mr. Sturdivant stated that the requested Variance is a 26% deviation from the Zoning Code requirements, whereas the lots they are relying to support their request are less than a 5% deviation from the width requirements.

David Clark, 2625 East 37th Street, Tulsa, OK; stated he lives directly behind the subject property. Mr. Clark stated the non-conforming lots are within less than 10% smaller than 100 feet; 96.4 feet is the smallest lot. If the subject lot were to be split it would be the smallest lot width wise within a mile area.

Harrison Townes, 3717 South Birmingham Avenue, Tulsa, OK; stated he lives 1,250 feet southwest of the subject lot. Mr. Townes stated that he was the President of the Greater Oakview Estates Homeowners Association, which was formed about 25 years ago in response to a lot split that was proposed. The lot split was defeated, but with the properties being large they could foresee lot split requests, so the neighbors formed the home owner's association and were able to prevail to get as much of the area as possible zoned RE. Since that time there have been no lot split problems in the area.

The property values have increased, and the large lots are great for the neighborhood. Mr. Townes stated he is opposed to splitting the lots and would like to see the lots remain RS-1.

Mr. Van De Wiele asked Mr. Townes if he knew why the RE zoning did not extend all the way to 36th Street. Mr. Townes stated the homeowner's association covered the area from 36th Street on the north side to 41st Street on the south, to Lewis on the west and to Delaware on the east.

Robert Bryant, 2664 East 37th Street, Tulsa, OK; stated he is a real estate appraiser. Mr. Bryant stated that when a residential appraisal is done the first thing looked at is the highest and best use which is zoning. If he consults with a client about the subject property the first thing he will tell them is that a lot split is not allowed, because it does not meet the requirements to have a lot split. A lot split would not benefit this neighborhood at all. If this lot split is allowed then the next door neighbor will want to split his property, then the next person will want to split their lot, and it will continue on and on. If this happens the integrity of the neighborhood is gone.

David Livingston, 316 Blue Windsor Lane, Colorado Springs, CO; asked what is the neighborhood? Is the neighborhood south of 36th Street or north of 36th Street? Is the RE parcel to the west of Lewis and north of 36th Street, is that in the neighborhood? Perhaps it can be defined when it was developed. He would guess that the area north of 36th Street was developed prior to the area south of 36th Street. That is something that should be considered. Mr. Livingston stated that it seems to him that the term "existing neighborhood" means something. Will the lot split do anything to enhance that area? Mr. Livingston stated in his opinion it will not. Mr. Livingston stated that by granting the Variance request would destabilize the neighborhood, and he asks the Board to not do anything to take away that stability.

Gloria Huckaby, 562 South Allegheny Avenue, Tulsa, OK; stated she owns property at 2440 East 36th Place. She is speaking on behalf of her sister, Mr. Livingston's mother, who is 99 years old and cannot attend today. Ms. Huckaby stated that the applicant stated the hardship to be the lot's depth. If he splits the lot as indicated that would not affect the depth at all. In fact, that would create two hardships because the split would create two lots 75 feet wide each and each would be almost a block long. If this is approved there would be two hardships created where none exists at the present time. There is no hardship and no need for a Variance. The neighbors are hoping the integrity of the neighborhood will be preserved because that is what it is all about.

Delio Silvestri, 2619 East 37th Street, Tulsa, OK; stated he e-mailed a letter to Ms. Ulmer. Mr. Silvestri stated that he went through all the criteria for the Variance request, and he could not find where any of the criteria boxes were checked.

Mr. Van De Wiele stated that the categories that Mr. Silvestri looked at the same ones the Board has to look at and will discuss when this matter goes into the discussion phase for a decision.

Jean Miller, 3701 South Birmingham, Tulsa, OK; stated she opposes the lot split because it will not preserve the character or quality of the neighborhood.

Ted Osgood, 2655 East 37th Street, Tulsa, OK; stated his father was a Planner for the City of Tulsa for many years and he grew up going into the other side of the business as a real estate developer. Mr. Osgood stated that his father told him that if he was going to buy a house and raise a family Ranch Acres and the Oakview area is the purest example of great zoning in the City of Tulsa. Mr. Osgood does not want to see it screwed up. He has own three properties in the area over 30 years and he has never seen a lot split go vertically but has seen them go horizontally. This area is very viable today because young families like the green space the area provides. Mr. Osgood asks the Board to deny this Variance request and preserve the character and integrity of the neighborhood.

Joan Parkhurst, 2626 East 37th, Tulsa, OK; stated that she and her husband are against this requested lot split.

Mary Livingston, 1500 South Frisco, Tulsa, OK; stated she is speaking on behalf of her parent who lives at 3641 South Birmingham. It has been since August 1982 since the area has seen a Variance request. It is a very stable neighborhood and they would welcome anyone that would purchase the subject property to the neighborhood.

Rebuttal:

Brad Brown came forward and stated that this is all about the location of the subject property. This is not an issue of trying to go around the zoning code, because if this lot is split down the middle it will become two lots that are half acre each and will far exceed the 13,500 square feet requirement for an RS-1 lot. This request is a simple Variance of the frontage of the subject property. The subject property is not zoned RE, and he would not be here if it were a zoned RE property. It is zoned RS-1 and is on a major thoroughfare in midtown. His clients purchased the house with the intent of increasing the stability within the neighborhood. They saw a dilapidated house that was an eyesore in the community, purchased it, and leveled it. This is not a money maker for his clients. They genuinely care about the community. Mr. Brown stated that he understands the Board looks at requests on a case by case basis as it should. Every application is unique as is every property. Mr. Brown stated he appreciates the concerns of the neighbors that have been expressed today, but the neighbors to the east and to the west have given their consent to this requested split and they are the people that would be most affected by this. This subject property does not go into the Oakview Estates neighborhood; it is on 36th Street and the lots across the street are non-conforming. Mr. Brown requests the Board grant this Variance.

Comments and Questions:

Mr. Van De Wiele stated that he is not in favor of the lot split. These are overly large lots. They were overly large when they were platted. The lots on the north side of what is now 37th Street were at some point those lots were split into something approaching a

normally shaped and normally sized lot. The Board sees this from time to time because developers do want to split lots because you can sell two lots for more than one lot. He believes there is an aspect of financial hardship, which is not a viable hardship for the Board to grant a Variance. Splitting the lot lengthwise and claiming the hardship to be the depth of the lot does not ring viable as a valid hardship. Mr. Van De Wiele stated he will not support this request.

Ms. Back agreed with Mr. Van De Wiele.

Ms. Ross stated that she is also having a hard time with the hardship. She does not see the depth of the lot as being a hardship, especially when the depth of the lot does not change when splitting the lot. Ms. Ross believes a buyer can be found for the property who will love the fact that it is a huge lot.

Mr. Bond agreed with all the Board members. The Variance to be granted will not alter the essential character of a neighborhood in which the property is located. The character of a neighborhood is something that is inherently subjective. The Board depends on the neighbors to come tell them what the character of the neighborhood is. Mr. Bond believes he has heard testimony as to what that character is. Mr. Bond thinks the reason for the Variance is self-imposed.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **DENY** the request for a Variance to reduce the minimum lot width from 100 feet to no less than 74 feet to permit a lot split in the RS-1 District (Section 5.030-A). The Board finds the hardship to not be valid as splitting the lot vertically rather horizontally did change the depth, and the Variance if granted would alter the essential character of the neighborhood, and the hardship is more of a self-imposed hardship and focuses on the financial aspect; for the following property:

PRT LT 7 BLK 1 BEG NWC LT 7 TH E ON NL 150 TH S ON EL 284.30 TH W TO PT ON WL 285.40S OF NWC TH N ON WL TO POB,OAKVIEW ESTATES, City of Tulsa, Tulsa County, State of Oklahoma

22469—Jack Arnold

Action Requested:

Variance to reduce the minimum frontage requirement in an OL District (Section 15.030-A) to permit a lot-split. **LOCATION:** 7320 South Yale Avenue East **(CD 8)**

Presentation:

Jack Arnold, 7310 South Yale, Tulsa, OK; stated he has been involved with he subject property for 40 years. There is a total of two acres which he owns, and he would like to split off the back portion. Originally there were two lots; a lot to the north that 169 feet

north and south and a second lot of the same size, which the second lot is the one he would like to split. There is a street down the middle that is now a private drive. The property is all Stacy Park Subdivision and the zoning is currently OL.

Ms. Ross asked Mr. Arnold if the lot is split off will the existing building still have enough parking for them? Mr. Arnold stated that he has mutual parking easements for everyone and there is more ample parking than anyone needs, even if they were medical. Mr. Arnold stated that he has about 30% more parking than necessary for an office structure.

Mr. Van De Wiele asked Mr. Arnold if the lot he wants to split off is contiguous to 74th Street. Mr. Arnold answered no and stated that at one time it was and at one time 74th Street was a public street and is no longer a public street.

Mr. Van De Wiele asked Mr. Arnold to state his hardship. Mr. Arnold stated that at one time he had access to a public street and does not have that any longer. Mr. Arnold stated that he thinks the lot split is the simplest thing to do to accomplish his goals.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to reduce the minimum frontage requirement in an OL District (Section 15.030-A) to permit a lot-split, subject to conceptual plan 8.12. The Board finds the hardship to be the lack of access to a public street. The applicant is to provide copies of recorded cross parking easements and mutual access easements to INCOG. 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 2 LESS BEG SECR LT 2 TH W19.78 NE27.98 W19.82 POB BLK 1, STACY PARK, SILVER RIDGE, SILVER OAKS B1-5, City of Tulsa, Tulsa County, State of Oklahoma

22470—Jody Cole

Action Requested:

Variance to permit an accessory building to exceed 40% of the floor area of the principal residential structure (Section 45.030-B). **LOCATION:** 724 North Kingston Avenue East **(CD 3)**

Presentation:

Jody Cole, 2440 West 81st Street, Tulsa, OK; stated he represents Carlos and Sabrina Irvin and they have been living at the subject property for 27 years. In 2017 they purchased the property next to them and joined the two lots thus creating a non-conformance. There is an existing structure that is approximately 742 square feet which exceeds the allowed square footage.

Mr. Van De Wiele asked Mr. Cole if the property use to be two lots with a house on each lot. Mr. Cole answered affirmatively. Mr. Cole stated that his clients would like to renovate the existing structure to use as an office.

Mr. Van De Wiele asked Mr. Cole if he was going to change the footprint of the existing house. Mr. Cole stated the existing house has a front porch on it and it will maintain that footprint; under roof. Mr. Van De Wiele asked Mr. Cole if the area under roof was not changing. Mr. Cole answered affirmatively.

Ms. Ross asked Mr. Cole if the owners would be operating a business out of the home office. Mr. Cole answered affirmatively. Ms. Ross asked Mr. Cole what type of business it is. Mr. Cole stated that it is a trucking company.

Mr. Van De Wiele asked Mr. Cole who would be working at the building. Mr. Cole stated that it would be Ms. Sabrina Irvin. Mr. Van De Wiele asked if it were just Mr. & Mrs. Irvin. Mr. Cole answered affirmatively.

Mr. Van De Wiele asked Ms. Miller if a home office would be allowed. Ms. Miller stated that if the business meets all the criteria for a Type I home occupation.

Mr. Cole stated that there will be no customers or employees coming to the property. Mr. Cole stated the Irvin's schedule hauls via telephone or internet and they dispatch from the building.

Mr. Van De Wiele asked if there was any signage. Mr. Cole answered no.

Interested Parties:

Carlos Irvin, 724 North Kingston Avenue, Tulsa, OK; stated he has lived at 724 for 27 years and for the last 18 years he has been independently operating. He and his wife have been working out of their home and they would like to move out of their home and move into the existing building.

Bobbi Drew, 6812 East Newton Street, Tulsa, OK; stated that she lives in the same neighborhood and is the President of the neighborhood association. Her concerns would be an increase in traffic and possibly large trucks. This is a very residential area and there is no room for large trucks or a lot more traffic.

Rebuttal:

Carlos Irvin came forward and stated he does not know anything about a homeowners association and has lived there for 27 years. Mr. Irvin stated that there will be no traffic.

Ms. Back asked Mr. Irvin where he parked his truck. Mr. Irvin stated he rents a lot for his business vehicles.

Sabrina Irvin, 724 North Kingston Avenue, Tulsa, OK; stated that there are businesses located near the Post Office and there are trucks that use Independence all day long; it is a busy street.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to permit an accessory building to exceed 40% of the floor area of the principal residential structure (Section 45.030-B), subject to conceptual plan 9.16 of the agenda packet. The Board finds the hardship to be the combining of two lots and the remodel and update of an existing building. The business is to be in keeping with the Type I home occupation as defined in the City of Tulsa 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:

N 50 S 100 & S50 N94.2 LT 1 BLK 5, FAIRLAND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22472—Ty Hood

Action Requested:

Variance of the required street setback from East 61st Street South to permit a swimming pool (Section 90.090-C and Section 5.030-A). **LOCATION:** 6025 South 73rd Avenue East (CD 7)

Presentation:

Ty Hood, Galaxy Home Recreation, 7813 East Admiral Place, Tulsa, OK; stated the Variance is being applied for due to the size of the property. The setback will place the pool against a joined driveway of the neighbor. The pool will not cross the building line of the house. There is also a pool to the east that crosses the setback.

Ms. Ross asked Mr. Hood if there would be a fence erected. Mr. Hood answered affirmatively. Ms. Ross asked if the fence would go into the driveway. Mr. Hood answered that it would not.

Mr. Van De Wiele asked Mr. Hood if the driveway went behind his client's house. Mr. Hood answered affirmatively. Mr. Hood stated the driveway is shared between two houses and his client's driveway curves into their garage.

Ms. Ross asked Mr. Hood if his clients would still have room to park in the back. Mr. Hood answered affirmatively. Mr. Hood stated the pool will actually be in the yard next to the drive but with the setback it puts it up against the shared portion.

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, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the required street setback from East 61st Street South to permit a swimming pool (Section 90.090-C and Section 5.030-A), subject to conceptual plan 11.8 of the agenda packet. The Board finds the hardship to be the subject property is located on a cul-de-sac, has a shared driveway and also has two street frontages making the layout of the sizeable lot quite difficult to the positioning of the swimming pool. 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 12 BLK 8, WOODLAND VIEW FIFTH ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22473—Brian Sellers

Action Requested:

Special Exception to allow a carport in the street yard in an RS-3 District (Section 90.090-C.1). **LOCATION:** 3423 South Yorktown Avenue East (**CD 9**)

Ms. Ulmer stated that Ms. Blank informed her the legal description included an additional subdivision name of Kennebunkport, which will be removed from the legal description.

Presentation:

Brian Sellers, 3902 East 51st Street, Tulsa, OK; stated he represents the home owner. Mr. Sellers stated the home owner would like to have cover for her vehicle because she has a one-car garage. She would like to have a detached carport and that is visually appealing. The carport will not encroach the front setback.

Mr. Van De Wiele asked Mr. Sellers if there were other carports in the area. Mr. Sellers stated that he has not investigated that.

Ms. Ross asked Mr. Sellers if his client had more than one car. Mr. Sellers answered affirmatively.

Mr. Van De Wiele asked Mr. Seller to explain what the planned carport would be constructed of. Mr. Sellers stated the carport would be in keeping with the Craftsman style and would have cedar posts with asphalt shingles to match the house. The carport would also be painted to match the house. The roof pitch would match the existing gable.

Interested Parties:

Herb Beattie, 3474 South Zunis Avenue, Tulsa, OK; stated he is speaking on behalf of the Brookside Neighborhood Association. He is in support of neighborhoods of stability which is a major principle that the Board of Adjustment and INCOG has supported for a number of years. He has lived near the corner of 36th and Lewis since 1978, and he moved to the west side of Lewis 18 years ago. This is a very stable neighborhood and there have been no changes in the neighborhood for about 30 years. There have been no setback Variances occur since the zoning of the neighborhood. Does the Board want to set a precedent of ignoring the zoning code? He would urge the Board to continue this case, so the residents of the neighborhood could have a meeting.

Mr. Van De Wiele stated that the requested carport is not in the setback, it sits behind the setback. The request is for a Special Exception to allow a carport in the front yard. It is not within the setback, it is within the front yard.

Mr. Beattie asked the applicant needed the Board's permission for the carport. Mr. Van De Wiele stated there is a requirement in the Zoning Code that states there can only be a carport in the front yard if there is a Special Exception granted by the Board of Adjustment. A Variance requires a hardship so if the applicant wanted to encroach into the setback there is a higher standard. The standard for a Special Exception is that it will not be injurious to the neighborhood, that it is in harmony with the spirit and intent of the Code or otherwise detrimental to the public welfare. The standard is that it is in harmony with the spirit and intent of the Zoning Code. Will it be injurious to the neighborhood? Will it be detrimental to the public welfare? Mr. Beattie stated that he would argue very strongly that it is not consistent with the intent of the Zoning Code. Mr. Beattie stated this carport would be a significant change in the neighborhood, and

the neighbors would like to have the time to explore this at length with staff and with the neighborhood association.

Robert Sartin, Attorney, 110 West 7th Street, #900, Tulsa, OK; stated he is a home owner in Adams Estates. The lots in Adams Estates are governed by restrictive covenants that were adopted in 1945. The restrictive covenant with regard to carports prohibits them. Specifically, the restrictive covenant states all lots in the tract shall be known and described as residential lots. No structure shall be erected, altered, placed or permitted to remain on any residential building lot other than one detached single-family dwelling not to exceed two stories in height, and a private garage not more than two cars. The restrictive covenants expressly prohibit car ports. Mr. Sartin does not believe the Board of Adjustment should grant a Variance that is in violation with the restrictive covenants that created the subdivision.

Mr. Van De Wiele stated that as far a precedent, he has been on the Board for about nine years and Mr. Beattie has been coming to meetings that same length of time. Mr. Van De Wiele stated that he has not heard anyone on the Board say, "this is going to set a precedent one way or another". All applications are taken individually. As to the restrictive covenants, he has heard time and time again, and it is frustrating for neighbors if they have a restrictive covenant that would fly in the face of something that may or may not be allowed under the Zoning Code, but the Board does not have the authority to enforce or interpret or the ability to take into consideration whether there is or is not a restrictive covenant in place in granting a Special Exception or Variance. The Board certainly cannot enforce restrictive covenants.

Ms. Blank stated the Board does not enforce restrictive covenants. There might be an argument that it goes to the character of the neighborhood, but just in a general way the Board is not obligated to uphold them, and it is not part of the consideration.

Mr. Sartin thinks that objecting at the Board of Adjustment is a condition perceived to making the same argument in District Court which is what the neighborhood intends to do next. Mr. Sartin stated that, just like Ms. Blank stated, the restrictive covenants certainly represent the intent and character of the neighborhood, and what everyone intended with this neighborhood was created. To allow a deviation from that certainly would fly in the face of what the other neighbors have had to live with for the last 65 or 70 years.

Mr. Bond asked Mr. Sartin if he was aware of any carports in the neighborhood. Mr. Sartin stated that he did not know one or the other. Mr. Sartin left the copy of the restrictive covenants for the neighborhood with staff.

Mr. Van De Wiele asked Mr. Sellers if the picture of the property represents what exists on the ground today? Mr. Sellers stated he is not aware of anything being added. He believes the home owner has done some landscaping around the front patio.

Mr. Van De Wiele asked Ms. Ulmer when the pictures of the property were taken. Ms. Ulmer stated that when she took the picture during her site visits for today's meeting, she took a picture of the wrong house, so she used a Google image for the agenda packet. Mr. Sellers offered current picture of the subject from his cell phone which was placed on the overhead projector for viewing.

Mr. Sellers stated that the owner of the subject property has quite a few personal vehicles and would like to keep them under cover. The owner has an interest in keeping the property nice and does not want to do just any carport, like a cheap metal carport.

Comments and Questions:

Mr. Bond stated the Board has struggled with carports in the past, and the ones that have been allowed have been a part of the character of the neighborhood. Mr. Bond stated that he cannot think of a single carport in the neighborhood. Even though proposed carport looks like it is going to be made from quality materials and in keeping with the house, he cannot support this request.

Mr. Van De Wiele thinks there are a couple of things going on that the client should be aware of. The Board is not going to review the restrictive covenants and tell anyone whether they are or are not applicable to the area, or what they say or mean but he would suggest this case be continued until the meeting of the 24th giving the applicant an opportunity to visit with Mr. Sartin and the neighbors on either side.

Mr. Sellers asked the Board if the carport were an enclosed structure as opposed to a carport could that be done? Mr. Van De Wiele stated that if the garage were to be extended might be possible, and that is a conversation certainly worth having with INCOG staff. Ms. Miller stated there is a minimum 25-foot setback from the street.

Mr. Sellers requested to have the case continued to the July 24, 2018 Board of Adjustment meeting.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; absent) to **CONTINUE** the request for a Special Exception to allow a carport in the street yard in an RS-3 District (Section 90.090-C.1) to the July 24, 2018 Board of Adjustment meeting; for the following property:

LT 7 BLK 1, ADAMS ESTATES, City of Tulsa, Tulsa County, State of Oklahoma

22474—Susan Bedwell

Action Requested:

Special Exception to allow a fence to exceed 8 feet in height within the required building setbacks (Section 45.080-A). **LOCATION:** 1409 East 37th Place South (CD 9)

Presentation:

Susan Bedwell, 1409 East 37th Place, Tulsa, OK; stated she has lived at the property since 1996, and it is located in Brookside which is a very popular area right now. There are a lot of properties that are being down, and they are maxing out the lots with two-story houses. Ms. Bedwell stated that her house is one story. Last year her next door neighbor razed his house and built a new two-story house. Unfortunately, both houses are in the regulatory flood plain area. Now his house is elevated quite high and he has a patio in the rear that is adjacent to her pool. The patio is about four feet above grade. There is an existing six-foot fence, but it does not provide any privacy. Ms. Bedwell stated that there is no place she can go in her back yard and have privacy. Ms. Bedwell stated that she would like to erect a ten-foot fence just around the area where the pool equipment is located, so when the neighbor is on his deck there would be the equivalent of a six-foot privacy fence.

Mr. Bond asked Ms. Bedwell if the neighbor would allow her to erect the fence on his lot. Ms. Bedwell stated the fence has been there since the original owners and she extended the fence in the front because there were issues. Ms. Bedwell stated the plans are to leave the fence on his side where it is and take their side of the double fence down, erect steel posts and raise the fence to the requested height. The ten-foot portion of the fence would just adjacent to the neighbor's patio.

Ms. Ross asked Ms. Bedwell if she had discussed this request with her neighbor. Ms. Bedwell stated that she has not, because she is not necessarily on good terms with them. Ms. Bedwell stated that when the neighbor first moved in he had a lot of parties and there were a lot of problems with that.

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, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a fence to exceed 8 feet in height within the required building setbacks (Section 45.080-A), subject to conceptual plans 13.8 and 13.9 in the agenda packet. The fence height is limited to 10'-0" in the marked section of plan 13.9. Conceptual plan 13.8 provides an example of the scale of the house to the subject

property. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

E60.9 LT 10 BLK 3, LEOKI PLACE, City of Tulsa, Tulsa County, State of Oklahoma

22475—A-MAX Sign Company

Presentation:

Special Exception to allow a dynamic display in a RS-3 District (Section 60.050.2.c). **LOCATION:** 10818 East 17th Street South **(CD 5)**

Presentation:

Bruce Anderson, A-Max Sign Company, 9520 East 55th Place, Tulsa, OK; stated he agrees with all the language and issues that were brought up about the Special Exception. The sign hours will be turned off at 9:00 P.M. and turned back on at 7:00 A.M. Mr. Anderson stated that he has heard from the neighborhood association and they have no problems with sign.

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, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a dynamic display in a RS-3 District (Section 60.050.2.c), subject to conceptual plans 14.9 and 14.10 in the agenda packet. The sign is to comply with the Code as it is specified for a dynamic display sign. 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 1 BLK 18, MAGIC CIRCLE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22476—A-MAX Sign Company

Action Requested:

Variance to permit a dynamic display within 50 feet of a driving surface of a signalized intersection (Section 60.100-D); Variance to permit a dynamic display

within 20 feet of the driving surface of a street (Section 60.100-E). **LOCATION:**
8080 South Yale Avenue East (CD 8)

Presentation:

George Saxby, 413 West 119th Street, Jenks, OK; stated he represents Oklahoma Capital Bank. The request is to install a larger dynamic display sign on an existing sign. It will be approximately the same size as the sign itself. The sign cannot be moved because the parking starts at the west end of the existing sign. The bank is a tenant on the property on a lease with at least three more years on the lease. The existing display is approximately 2'-0" x 4'-0" in size, which was installed about 35 years ago when Yale was a two-lane street and Yale has encroached toward the subject sign.

Mr. Van De Wiele asked Mr. Saxby to state his hardship for this request. Mr. Saxby stated the hardship is the fact that the sign cannot be moved. Mr. Van De Wiele asked Mr. Saxby why the sign could not be moved. Mr. Saxby stated that if it were moved the sign would be in the middle of the parking area and into a driving lane that goes around the side of the building.

Ms. Back stated the Board in the past was concerned about the subject sign going to a full motion, full color sign because it is so close to the stop lights located at 81st Street.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated he cannot support this request and would vote to deny the request from a safety issue and a lack of a hardship.

Ms. Ross agreed.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **DENY** the request for a Variance to permit a dynamic display within 50 feet of a driving surface of a signalized intersection (Section 60.100-D); Variance to permit a dynamic display within 20 feet of the driving surface of a street (Section 60.100-E) for lack of a valid hardship and safety concerns for the welfare of the public; for the following property:

LT 2 LESS BEG SWC TH N335 E280 S89.36 E98.02 S245.64 W377.42 POB & LESS BEG NEC TH S225 SW28.25 W14.13 NE34.08 N220.87 NL E10 POB FOR ST BLK 1, COUNTRY HOLLOW CENTER, COUNTRY HOLLOW, City of Tulsa, Tulsa County, State of Oklahoma

22477—A-MAX Sign Company

Action Requested:

Variance to permit a projecting sign to exceed the maximum permitted height of 35 feet to be installed 79.16 feet above grade with a 50-foot setback from South Elgin Avenue East (Section 60.080-D). **LOCATION:** 121 South Elgin Avenue East (**CD 4**)

Presentation:

Lori Worthington, A-MAX Sign Company, 9520 East 55th Place, Tulsa, OK; stated the request is to allow a projecting sign for Hotel Indigo. There has been a four-story building erected next to the subject property making it basically no longer visible from the downtown district. Also, there are railroad tracks and the position of the streets allows for very little visibility for the hotel.

Ms. Miller asked if this was the Santa Fe lot, and Ms. Worthington answered affirmatively.

Mr. Van De Wiele asked if this was part of the Santa Fe Development? Ms. Worthington answered affirmatively. Mr. Van De Wiele recused at this point.

Ms. Back disclosed that her former employer worked on this project and it was not one of her main projects. Ms. Back stated that she can be unbiased. Ms. Blank stated that it is sufficient to disclose.

Mr. Van De Wiele recused and left the meeting at 3:38 P.M.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Ross stated that she does not have a problem with this request. This is a hotel in an area where it is very populated with residences and businesses.

Ms. Back stated that also Albert G's has a very unique sign in the area and they received quite a bit of relief for their sign in the same area.

Board Action:

On **MOTION** of **ROSS**, the Board voted 3-0-1 (Back, Bond, Ross "aye"; no "nays"; Van De Wiele "abstaining"; none absent) to **APPROVE** the request for a Variance to permit a projecting sign to exceed the maximum permitted height of 35 feet to be installed 79.16 feet above grade with a 50-foot setback from South Elgin Avenue East (Section 60.080-D), subject to conceptual plans 16.13, 16.14 and 16.15. The Board finds the hardship to be the four-story building placed across the street prohibiting visibility in the

downtown district and also the railroad nearby prohibits visibility from downtown. The Board finds that the following facts, favorable to the property owner, have been established:

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

PRT BLK 85 BEG 44.50SWC BLK 85 TH NE195.50 SE95 SW240 NW69 NE44.50 NW26 POB BLK 85, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele re-entered the meeting at 3:42 P.M.

22478—Justin Doolin

Action Requested:

Special Exception to allow the driveway width to exceed 30 feet on the lot and 20 feet in the right-of-way in an RS-1 District (Section 55.090-F.3). **LOCATION:** 10212 South Oswego East **(CD 8)**

Presentation:

Justin Doolin, 10212 South Oswego Place, Tulsa, OK; stated he would like to increase the driveway for personal usage and parking. His family plays basketball in the street and there is a slope, so the balls roll down to 103rd. He thinks with the increase he would not need to park in the cul-de-sac any longer. Several driveways in the neighborhood have multiple entrances and are quite wide.

Mr. Bond left the meeting at 3:48 P.M.

Mr. Van De Wiele asked Mr. Doolin how wide the driveway width on Oswego is at the curb line. Mr. Doolin stated that he plans one for 32 feet wide and one for 16 feet wide. Mr. Doolin stated he would like to lay a lot concrete in the back entrance to improve the use and make the area better.

Mr. Bond re-entered the meeting at 3:50 P.M.

Mr. Van De Wiele asked Ms. Miller to explain the term “20 feet in the right-of-way”. Ms. Miller stated the driveway width in the right-of-way is limited to a maximum of 20 feet. It is intended to be 20 feet until you reach the 12-foot line inside the right-of-way line then it flares out. Ms. Miller stated there is a proposal that will be at the Council meeting tomorrow regarding driveways. Ultimately, it is contextual based on the lot frontage, but ultimately it has a maximum of 30 feet wide even if there is a 300-foot wide lot frontage. Ms. Miller stated that the new code language will be written that if it is a circle drive then it could be more than 15 feet at each entrance if it were at a 30-foot maximum. The right-of-way is also different from the front yard.

Interested Parties:

Tonya Keeney, 10204 South Oswego Place, Tulsa, OK; stated she lives next door to Mr. Doolin, to the west. Ms. Keeney stated that Mr. Doolin’s yard is the first property that is seen when turning in from the east, and almost all of his side of the house will be concrete. Where the driveway will end is very close to the property lines for each, and it would cut down on the parking for along the curb. Ms. Keeney stated that for almost a year there have been various vehicles parked in the yard of the Doolin residence, i.e., two tractors and a riding lawn mower. Ms. Keeney stated that she has filed a code violation with the City and never received any information. All the other houses in the cul-de-sac have green well-manicured front yards as well as the bushes and putting concrete on the entire side of his house will make it look like a commercialized area. Ms. Keeney stated that she does not understand the reasoning or the need for the extra driveway because there is a two-car garage and the Doolin’s are a two-car family. Ms. Keeney stated that she is opposed to the driveway.

Mr. Van De Wiele disclosed that he lives in the neighborhood on Sandusky.

Rebuttal:

Justin Doolin came forward and stated Ms. Keeney is correct, he does have two tractors. Mr. Doolin stated that removed 12” of dirt on the northeast side of the property and two cottonwoods were taken out. There are three houses that have two entrances and one house that has three entrances. These are large lots and he thinks keeping kids out of the street is better. Mr. Doolin stated that if he is allowed to build this proposed driveway it will keep his guests and his children out of the street.

Comments and Questions:

Mr. Van De Wiele stated that there are lots of circle driveways in this neighborhood and there are lots of wide driveways. This is common in this neighborhood and there are more wide driveways than circle driveways. Mr. Van De Wiele stated that he does not see this being injurious to the neighborhood or detrimental to the public welfare. He is in favor of this request.

Ms. Ross stated that she has issue with the circle driveway, having two entrances on South Oswego Place which is a cul-de-sac with limited parking. Ms. Ross stated that she does not see why 30 feet would not be adequate because 30 feet supports a three-car garage.

Mr. Bond stated that he is undecided.

Ms. Back stated that when more impervious surface is added there are more places for people to park, but she noticed that this is a large lot on the corner of 103rd Street and Oswego Place so they have room to park on both streets as opposed to people on the inside radius of the cul-de-sac. Ms. Back believes this would be injurious to those that are on the inside of the cul-de-sac.

Mr. Van De Wiele stated that it seems that there is one vote in favor of the request, one vote undecided and two votes against the request. He suggested to the applicant that he request a continuance to allow the new fifth Board member be in attendance at the next meeting.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Special Exception to allow the driveway width to exceed 30 feet on the lot and 20 feet in the right-of-way in an RS-1 District (Section 55.090-F.3) to July 24, 2018 Board of Adjustment meeting; for the following property:

LT 12 BLK 1, SHADY OAKS ESTATES II, City of Tulsa, Tulsa County, State of Oklahoma

22479—Tanner Consulting – Erik Enyart

Action Requested:

Modification to previously approved site plans (BOA-17791 and BOA-18491).

LOCATION: 1213 & 1217 South 129th Avenue East **(CD 6)**

Presentation:

Erik Enyart, Tanner Consulting, 5323 South Lewis Avenue, Tulsa, OK; stated he represents Transco Supply Company, Inc. The business opened in 1979 and are

successful, and they would like to expand. The previous Special Exception approval included site plans that had separate individual buildings. The conflict is that there is a flood plain in the west corner. The current plan is to expand the existing building to the west, thus doubling it in size, and adding a parking lot strip to the west. Because of the way the Board approved the previous request he asks the Board to approve the revised expansion plan for this project.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Modification to previously approved site plans (BOA-17791 and BOA-18491), subject to conceptual plan 18.15 in the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, subject to concept; for the following property:

N91.5 LT 6 & ALL LT 7 LESS W25 THEREOF BLK 4; LT 8 LESS W25 THEREOF BLK 4, ROMOLAND, City of Tulsa, Tulsa County, State of Oklahoma

22480—Anthony Smith

Action Requested:

Special Exception to permit a temporary tent to exceed 30 days per lot per year and exceed 10 consecutive days (Section 50.030-D). **LOCATION:** 5260 North Peoria Avenue East **(CD 1)**

Presentation:

Anthony Smith, 8828 N. W. 121st, Oklahoma City, OK; stated he has used the subject lot for the last three years. This year the tent revival is going to be for five days only. Mr. Smith stated that the City has told him that he time starts when he receives the permit, but the revival does not start until July 25th.

Ms. Ulmer stated that she spoke with Bob Kolibas with the City, and he said the count starts the day the tent is put up.

Ms. Back asked Mr. Smith how long it takes to set up the tent. Mr. Smith stated that it takes about five days for a full set up, and three days to dismantle the tent.

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, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to permit a tent revival one time a year for a total of 30 consecutive days in June, July or August ending in the year 2028 located on the subject property located at 5260 North Peoria Avenue (Section 50.030-D), subject to conceptual plans 19.18 and 19.19 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

E. 430' RESERVE-A-LESS E. 130' N.180.01', SHARON HGTS ADDN B10 SUB PRT RES A SHARON HGTS, SHARON HGTS 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 4:20 p.m.

Date approved: *Carolyn M. Back*

8.14.18
Chair