

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1143
Tuesday, July 14, 2015, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Henke, Chair Tidwell, Secretary Van De Wiele White, Vice Chair	Snyder	Miller Moye Foster Sparger	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, July 9, 2015, at 10:58 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Henke called the meeting to order at 1:15 p.m.

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

MINUTES

On **MOTION** of **TIDWELL**, the Board voted 4-0-0 (Henke, Tidwell, VanDeWiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the **Minutes** of the June 23, 2015 Board of Adjustment meeting (No. 1142).

UNFINISHED BUSINESS

21913—Peter Kroner

Action Requested:

Variance to exceed the permitted height of 10 feet at the top of the top plate for a detached garage; Variance to exceed one-story in height; Variance to exceed 500 square feet in building floor area (Section 210.B.5.a-b) to permit remodel of an

existing detached accessory building. **LOCATION:** 1215 East 20th Street South
(CD 4)

Presentation:

The applicant requested a continuance to August 11, 2015.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **CONTINUE** the request for a Variance to exceed the permitted height of 10 feet at the top of the top plate for a detached garage; Variance to exceed one-story in height; Variance to exceed 500 square feet in building floor area (Section 210.B.5.a-b) to permit remodel of an existing detached accessory building to the Board of Adjustment meeting on August 11, 2015; for the following property:

LT 6 BLK 3, MAPLE HGTS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21914—Khoury Engineering , Inc. – Malek Khoury

Action Requested:

Variance of the required parking from 75 spaces to 58 spaces (Sections 1211.D, 1212.D, and 1214.D). **LOCATION:** W of the SW/c of East 21st Street South & South Harvard Avenue East (CD 4)

Presentation:

The applicant has requested a continuance to July 28, 2015.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **CONTINUE** the request for a Variance of the required parking from 75 spaces to 58 spaces (Sections 1211.D,

1212.D, and 1214.D) to the July 28, 2015 Board of Adjustment meeting; for the following property:

LOTS 1, 2, AND 3, BLOCK 3, BONNIE BRAE AND PART OF LOT 4, BLOCK 3, BONNIE BRAE, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS: A TRACT OF LAND THAT IS PART OF THE NORTHWEST CORNER OF SAID LOT 4; THENCE NORTH 88°43'31" EAST ALONG THE NORTHERLY LINE OF SAID LOT 4 FOR 9.06 FEET; THENCE SOUTH 01°26'27" EAST FOR 94.76 FEET; THENCE SOUTH 88°37'05" WEST FOR 9.16 FEET TO A POINT ON THE WESTERLY LINE OF SAID LOT 4; THENCE NORTH 01°22'55" WEST ALONG SAID WESTERLY LINE FOR 94.78 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND. CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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NEW APPLICATIONS

21919—Whistler Outdoor Advertising, Inc. – John Allred

Action Requested:

Verification of spacing requirement for a digital outdoor advertising sign 1,200 feet from another digital outdoor advertising sign on the same side of the highway and 1,200 feet from another digital outdoor advertising sign facing the same traveled way (Sections 1221.G.9 and 1221.G.10). **LOCATION:** 3218 South 79th East Avenue (CD 5)

Presentation:

Staff is requesting a continuance to July 28, 2015.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **CONTINUE** the request for a Verification of spacing requirement for a digital outdoor advertising sign 1,200 feet from another digital outdoor advertising sign on the same side of the highway and 1,200 feet from another digital outdoor advertising sign facing the same traveled way (Sections

1221.G.9 and 1221.G.10) to the Board of Adjustment meeting on July 28, 2015; for the following property:

PRT LT 3 INTERCHANGE PL & PRT LT 3 BEG 1463.24W & 915.74S NEC SEC TH SE261.9 SW311.23 CRV LF87.54 NW291.93 NE244 NELY101.98 NE54 POB & BEG 1364.39W & 831.72S NEC SEC TH SE261.9 SW130 NW261.9 NE130 POB, INTERCHANGE PLACE, INTERCHANGE CTR, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21928—Will Wilkens

Action Requested:

Special Exception to allow a duplex use in the RS-4 District (Section 401, Table 1); Variance of front yard setback from 20 feet to 11 feet (Section 403, Table 3); Variance of the side yard setback from 15'-0" to 4'-11" (Section 403.A.5); Variance from the stated Bulk and Area requirements in Section 404.C.1, 2 & 4.
LOCATION: 1024 North Denver Avenue West (**CD 1**)

Presentation:

The applicant has requested a continuance to July 28, 2015.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **CONTINUE** the request for a Special Exception to allow a duplex use in the RS-4 District (Section 401, Table 1); Variance of front yard setback from 20 feet to 11 feet (Section 403, Table 3); Variance of the side yard setback from 15'-0" to 4'-11" (Section 403.A.5); Variance from the stated Bulk and Area requirements in Section 404.C.1, 2 & 4 to the Board of Adjustment meeting on July 28, 2015; for the following property:

LT 1 BLK 7, BURGESS HILL ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Henke explained to the applicants and interested parties that there were only four board members present at this meeting, and 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. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from three board members to constitute a majority and if two

board members voted no today the application would be denied. Mr. Henke asked the applicants and the interested parties if they understood and asked the applicants or interested parties what they would like to do. The audience nodded their understanding and no one requested a continuance.

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UNFINISHED BUSINESS

21912—Jeff Bonebrake

Action Requested:

Variance of the allowed square footage for accessory buildings in the RS-1 District from 1,667 square feet (40% of the principal structure) to 2,338 square feet (Section 402.B.1.d); Variance to allow two unconnected parking surfaces in the RS-1 District (Section 1301.C). **LOCATION:** 4736 South Columbia Place East **(CD 9)**

Presentation:

Jeff Bonebrake, P. O. Box 1388, Muskogee, OK **and** **Jill Fryer**, 4736 South Columbia Place, Tulsa, OK; no formal presentation was made but the applicant and the home owner were both available for any questions.

Mr. Henke asked Mr. Bonebrake to explain about the existing garage. Mr. Bonebrake stated the garage is attached but not so that a person can walk from the inside of the house to the inside of the garage without walking outside, though it is a covered area between the two structures.

Mr. Van De Wiele asked if the two structures were physically connected. Mr. Bonebrake stated the two structures are physically connected but not technically attached according to the interpretation of the Code. If they were considered to be attached then the size requested for building were be permissible.

Mr. Van De Wiele asked Mr. Bonebrake if the garage were technically attached, would the proposed building exceed the 40%? Mr. Bonebrake stated that it would not because the garage is taken out of the 40%. The garage counts against the total square footage of the accessory area and it reduces the total floor area of the house.

Mr. White asked Mr. Bonebrake if the passage way to the garage was covered by a roof. Mr. Bonebrake stated that it is not; it has a second floor patio above. Mr. White asked if a person could go from door to door and not be in the rain. Mr. Bonebrake answered affirmatively, but rain water does pass through the slats of the wood deck above.

Mr. Van De Wiele asked Mr. Bonebrake to state the hardship for the Variance request. Mr. Bonebrake stated the hardship is that the way the house is landscaped and the way the front yard is positioned in the proximity from the house to the road a circle would be a more attractive look to the front yard.

Mr. White asked Mr. Bonebrake if the driveway were to be considered connected to the circular drive would it be necessary for him to be before the Board. Mr. Bonebrake he thought he would be because of the two driveways.

Mr. Van De Wiele asked staff what made two parking surfaces connected or unconnected if there is a sidewalk between the two drives. Mr. Swiney stated that a sidewalk would not qualify as a driving surface.

Mr. Van De Wiele asked if a curbcut was the issue. Mr. Bonebrake stated there is no curbcut. Ms. Miller stated that a circular drive would add a curbcut but that would make the two connected. Mr. Swiney stated that it is the multiplicity of driveways; the intent of the ordinance is that there not be a bunch of driveways on a single property.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-1-0 (Henke, Tidwell, White “aye”; Van De Wiele “nay”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Variance of the allowed square footage for accessory buildings in the RS-1 District from 1,667 square feet (40% of the principal structure) to 2,338 square feet (Section 402.B.1.d); Variance to allow two unconnected parking surfaces in the RS-1 District (Section 1301.C), subject to conceptual plan 2.12 showing the existing garage as built and the proposed garage. Finding that the structure of the house and the garage are actually abutting each other and there is no room on the north side of the garage to build any additional structure. The Board has found that the lot dimension itself, 150 feet in width, is larger than necessary for the RS-1 area. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

S.150' LOT 6 BLK 4, VILLA GROVE SUB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21916—Whistler Outdoor Advertising, Inc. – John Allred

Action Requested:

Verification of spacing requirement for a digital outdoor advertising sign 1,200 feet from another digital outdoor advertising sign on the same side of the highway and 1,200 feet from another digital outdoor advertising sign facing the same traveled way (Sections 1221.G.9 and 1221.G.10). **LOCATION:** SW/c of South 120th East Avenue & East Broken Arrow Expressway **(CD 7)**

Presentation:

John Allred, 11063-B South Memorial, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Henke stated that the Board had received the applicant's surveyor certificate which is on page 5.6 in the Board's agenda packet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant's verification of spacing between outdoor advertising signs, either digital or conventional billboard, subject to the action of the Board being void should another digital outdoor advertising sign be constructed prior to this sign; for the following property:

LT 2 LESS BEG SECR LT 2 TH W623.90 N1049.94 SE398.40 CRV RT 70.32 SE130 CRV LF 38.64 S926.76 POB & LESS BEG NEC LT 2 TH S281.24 W10.01 N286.89 NL SE11.69 POB FOR ST BLK 4, METRO PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21917—Whistler Outdoor Advertising, Inc. – John Allred

Action Requested:

Verification of spacing requirement for a digital outdoor advertising sign 1,200 feet from another digital outdoor advertising sign on the same side of the highway and 1,200 feet from another digital outdoor advertising sign facing the same traveled way (Sections 1221.G.9 and 1221.G.10). **LOCATION:** 17301 East Admiral Place North **(CD 6)**

Presentation:

John Allred, 11063-B South Memorial, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Henke stated that the Board had received the applicant's surveyor certificate which is on page 6.6 in the Board's agenda packet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant's verification of spacing between outdoor advertising signs, either digital or conventional billboard, subject to the action of the Board being void should another digital outdoor advertising sign be constructed prior to this sign; for the following property:

LT 1, BLK 1, LUCKY'S ESTATES REPLAT MAC'S MOBILE HOMES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21918—Whistler Outdoor Advertising, Inc. – John Allred

Action Requested:

Verification of spacing requirement for a digital outdoor advertising sign 1,200 feet from another digital outdoor advertising sign on the same side of the highway and 1,200 feet from another digital outdoor advertising sign facing the same traveled way (Sections 1221.G.9 and 1221.G.10). **LOCATION:** 14149 East Admiral Place North **(CD 3)**

Presentation:

John Allred, 11063-B South Memorial, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Henke stated that the Board had received the applicant's surveyor certificate which is on page 7.8 in the Board's agenda packet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant’s verification of spacing between outdoor advertising signs, either digital or conventional billboard, subject to the action of the Board being void should another digital outdoor advertising sign be constructed prior to this sign; for the following property:

LT 1 LESS BEG SWC LT 1 TH N429.58 NE145.61 S319.88 S135 W150 POB & LESS BEG NEC LT 1 TH S APR 20 W APR 270 SW APR 448.14 N APR 91.53 CRV LF 14.40 E698.03 POB FOR HWY BLK 1,C EMIT WILSON, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21920—Whistler Outdoor Advertising, Inc. – John Allred

Action Presented:

Verification of spacing requirement for a digital outdoor advertising sign 1,200 feet from another digital outdoor advertising sign on the same side of the highway and 1,200 feet from another digital outdoor advertising sign facing the same traveled way (Sections 1221.G.9 and 1221.G.10). **LOCATION:** 8316 East 93rd Street South (**CD 7**)

Presentation:

John Allred, 11063-B South Memorial, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Henke stated that the Board had received the applicant’s surveyor certificate which is on page 9.8 in the Board’s agenda packet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant’s verification of spacing between outdoor advertising signs, either digital or conventional billboard, subject to the action of the Board being void should another digital outdoor advertising sign be constructed prior to this sign; for the following property:

**LT 2 BLK 1, SUNCHASE II RSB PRT L1&2 B2 SUNCHASE, CITY OF TULSA,
TULSA COUNTY, STATE OF OKLAHOMA**

21921—Whistler Outdoor Advertising, Inc. – John Allred

Action Requested:

Verification of spacing requirement for a digital outdoor advertising sign 1,200 feet from another digital outdoor advertising sign on the same side of the highway and 1,200 feet from another digital outdoor advertising sign facing the same traveled way (Sections 1221.G.9 and 1221.G.10). **LOCATION:** West of the SW/c of East 45th Street South and South Garnett Road **(CD 7)**

Presentation:

John Allred, 11063-B South Memorial, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Henke stated that the Board had received the applicant's surveyor certificate which is on page 10.7 in the Board's agenda packet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant's verification of spacing between outdoor advertising signs, either digital or conventional billboard, subject to the action of the Board being void should another digital outdoor advertising sign be constructed prior to this sign; for the following property:

**LOT 1 BLOCK 1, VALUE PLACE REPLAT LT 1 BLK 2 TOWNE CENTRE II & PRT LT
1 BLK 2 TOWNE CENTRE, CITY OF TULSA, TULSA COUNTY, STATE OF
OKLAHOMA**

21922—J. R. Donelson

Action Requested:

Special Exception to permit a fencing company (Use Unit 15) in the CS District (Section 701, Table 1); Variance of the required parking from 8 spaces to 7 spaces (Section 1215.D). **LOCATION:** 34 North Garnett Road East **(CD 3)**

Presentation:

J. R. Donelson, 12820 South Memorial Drive, Bixby, OK; stated he represents Empire Fence and they have operated their business about 50 years approximately 148 feet south of the subject site. They have owned the subject site for a number of years and would like to build a new office on the subject site. The property has recently been rezoned. On any given day the company has three employees and they will be in the proposed office, and they have very little walk-in traffic so the seven parking spaces will be sufficient.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a **Special Exception** to permit a fencing company (Use Unit 15) in the CS District (Section 701, Table 1); **Variance** of the required parking from 8 spaces to 7 spaces (Section 1215.D), subject to conceptual plan 11.10. The Board has found that the fencing business has been located in the immediate vicinity for a number of years without issue and will not be a detriment to the neighborhood. In relation to the Variance, the Board has found that the nature of the applicant’s business is one that is not heavy on customer presence at the subject location and the seven spaces to be provided will be more than sufficient for the use of the property. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan. Finding the 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:

N324.2 E/2 E/2 LT 1 LESS .03AC FOR HWY SEC 6 19 14 2.40ACS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21923—Kingdom Landscape, Inc. – Jim Edwards

Action Requested:

Variance to increase driveway coverage from 34% to 50% (Section 1303.D).

LOCATION: 1219 East 27th Place South **(CD 4)**

Presentation:

Jim Edwards, 3201 East 31st Street, Tulsa, OK **and Beth Knight**, 1219 East 27th Place, Tulsa, OK; Mr. Edwards stated the home owner shares a driveway with her neighbor and the total width of the existing driveway is 16 feet, thus allowing eight feet per car lane. It is virtually impassible when the two cars are parked in the driveway and it creates a daily shuffling of cars. Most of the time the home owner has at least one if not both of her cars parked on the street. Mr. Edwards stated that in the letter of objection to this request it was stated that this would create automotive clutter, but in reality the home owner will be moving her cars off the narrow Maple Ridge street thus reducing the automotive clutter. Mr. Edwards stated there is also a 50 year old tree located next to the existing driveway and the home owner really does not want to lose that tree.

Mr. Henke left the meeting at 1:58 P.M.

Mr. Van De Wiele asked Mr. Edwards if the existing sidewalk between the house and the circular drive was going to stay. Mr. Edwards answered affirmatively.

Mr. Edwards presented a picture of another circular drive in the neighborhood which is one block away from the subject property. Mr. White asked if the lot in the picture was a 50 foot lot. Ms. Knight stated that the lot in the picture is a larger lot.

Mr. Henke re-entered the meeting at 2:00 P.M.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the request for a Variance to increase driveway coverage from 34% to 50% (Section 1303.D), subject to the conceptual site plan submitted today, July 14, 2015 and conceptual site plan 12.7 showing the deletion of the sidewalk that extends from the circle driveway to the street right-of-way. The Board has found that the narrow lot and the shared driveway with the adjoining property is incompatible with today's automobiles and the use of the vehicles which has created a hardship on the property and the property owner. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional

conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

LT 12 BLK 16, SUNSET TERRACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21924—Enterprise Rent-a-Car

Action Requested:

Special Exception to permit an auto rental use (Use Unit 17) in the CS District (Section 701, Table 1). **LOCATION:** 5416 South Harvard Avenue East **(CD 9)**

Presentation:

Becky Hawk, 433 East Memorial Road, Oklahoma City, OK; stated she represents National-Alamo-Enterprise Rent-a-Car. No formal presentation was made but the applicant was available for any questions from the Board.

Mr. Henke stated that there have been e-mails received regarding the Special Exception renewal request, and he asked the applicant if she was in agreement with the renewal. Ms. Hawk stated she is in agreement with the renewal as long as it covers all three of the company's brands.

Mr. Van De Wiele stated that the renewal cannot be limited to a brand but is limited to a specific time frame.

Mr. White asked Ms. Hawk if there would be any changes to the existing structure. Ms. Hawk stated there would not be.

Interested Parties:

There were interested parties present but they did not speak.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **APPROVE** the request for a Special Exception to permit an auto rental use (Use Unit 17) in the CS District (Section 701, Table 1) for a 5 year period of time, until July 2020, subject to per plan 13.10. Finding the 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:

PRT LT 1 BEG 82.85N SECR LT 1 TH NW148.12 E55.98 E60 S92.15 POB BLK 1
TERRA AEDES ADDN & PRT NE SE NE BEG 241.69S NEC NE SE NE TH S225
W200 N200 E90 NE POB LESS E50 THEREOF & LESS S25 W150 THEREOF FOR
ST SEC 32 19 13 .62AC, UNPLATTED, CITY OF TULSA, TULSA COUNTY, STATE
OF OKLAHOMA

Mr. Tidwell left the meeting at 2:12 P.M.

21925—Michael Joyce, Attorney

Action Requested:

Special Exception to permit an office (Use Unit 11) in the RM-2 District (Section 401, Table 1); Variance to reduce the required building setback from the centerline of East 15th Street from 85 feet to 50 feet; Variance to permit a 3-story office building in the RM-2 District (Section 404.G). **LOCATION:** 1001 East 15th Street South (CD 4)

Mr. Tidwell re-entered the meeting at 2:14 P.M.

Ms. Moyer stated that an interested party had come forward during one of the previous cases being heard today, and requested a continuance for the Michael Joyce case.

Presentation:

Michael Joyce, 2121 South Columbia Avenue, Suite LL3, Tulsa, OK; stated that his client, John Fonder, would like to proceed with the hearing of this case today. His client and Randy Westbrook, the architect, have worked long hours on this request and Mr. Westbrook is present today. Mr. Joyce stated that he spent many hours walking the neighborhood and talking with neighbors, including Ms. Meadows, to receive feedback. Ms. Meadows is here today because of her concerns that the site plan and the elevations might be varied and that is not the case. Today's request for approval would be conditioned upon the height as specified to Ms. Meadows as reflected on the site plan with the building location being placed between two parking lots so as to minimize any visual impact in an east/west direction on 15th Street. Everything that was reviewed with Ms. Meadows will be the same and he is ready to proceed with the case.

Ms. Dru Meadows came forward stated that there are a number of neighbors that are not in agreement with this proposal. Because the notice was received just before the holiday weekend there have been people out of town and the neighbors have not been able to get together to discuss the project, so the neighbors respectfully request a continuance.

Mr. Van De Wiele asked Ms. Meadows to state what the specific opposition is that would justify the continuance. Ms. Meadows stated there are a number of concerns and people are out of town. This seems inappropriate to have this meeting in their absence. Ms. Meadows stated that she would like to have a couple more weeks to have the opportunity to speak with the neighbors. Mr. Van De Wiele asked Ms. Meadows if she still be dealing with summertime vacations and absences. Ms. Meadows stated this is an opportunity, as people come and go, to make sure everyone has shared their opinion.

Mr. Joyce stated that he had walked the 300 foot radius and knocked on doors; not one person that he spoke to objected to the proposal and Ms. Meadows is the only one that he spoke to that had a slight reservation. He thought he had overcome those reservations when he spoke to her on her front porch. Ms. Meadows requested the building not be built higher than the proposed 35 feet and not in any place different than shown on the plan. Ms. Meadows also requested Mr. Joyce to take down the existing cottonwood tree because, to her, it is nasty and blocks her view. Mr. Joyce stated that he agreed the tree would come down. Ms. Meadows also asked if there could be the exploration of a pedestrian crossing at the trail, and signage at the crosswalk that crosses over to the park.

Several audience members started speaking and Mr. Henke stated that a continuance request is the only action being considered because there is an orderly process to work in new business into the meeting. Mr. Henke informed everyone that they will have an opportunity to speak after the decision is made as whether or not the case will be heard or continued. Mr. Henke asked the interested audience members if they all would like to have a continuance. All answered affirmatively.

Mr. Van De Wiele stated that both sides are represented whether there are 30 other people that will come forward to say "no, not in my neighborhood".

Ms. Meadows asked if a continuance could be asked for because there were only four Board members present. Mr. Henke stated that by only having four Board members present works in the interested parties favor because Mr. Joyce needs to convince three Board members to vote in his favor for his plan to be approved. Four Board members present today is a handicap to Mr. Joyce. Ms. Meadows stated that Mr. Joyce has had a significant amount of time to prepare his presentation and the neighbors have not and would like to have that time.

Mr. Van De Wiele asked Ms. Meadows when she received her notice. She stated that she received it after the holiday weekend. She stated that she spoke with Mr. Joyce before and had no concerns at that time but had concerns after she received the notice and it didn't quite match up. She would like to opportunity explore her concerns so they could be resolved amicably.

Mr. Joyce stated that there are many people here that are going to object and he suspects the objections are going to be the same. He has listened to the people that he talked with and he has had an architect that has taken many steps to plan based on the history of the area in Maple Ridge. Mr. Joyce stated that he does not think a continuance is going to result in anything different from either side so he would respectfully request that the case proceed.

Mr. Henke led the Board into discussion.

Mr. White stated he is interested in what the objections are to the continuance requests and the only way to know that is to hear the case. Mr. White stated that Mr. Joyce has presented a list of people within the 300 foot radius and he has talked to some so that cannot be disregarded.

Mr. Van De Wiele asked staff when the notices were mailed. Ms. Moyer stated that they were mailed on June 29, 2015. Mr. Van De Wiele stated there are half dozen neighbors in attendance today and the possibility that somebody that is not in attendance today having a different objection seems to be minimal. Mr. Van De Wiele stated that he would be opposed to a continuance.

Mr. Henke stated that staff followed the notice rules and people take vacations all year round. Mr. Henke asked if a formal motion needed to be made by the Board for the continuance request. Mr. Swiney stated that for the record's sake there needs to be a motion made by the Board.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Snyder absent) to **DENY** the request for a Continuance in this case, BOA-21925; for the following property:

PRT LTS 1,2,6 & 7 & VACATED ALLEY BLK 6 BEG SECR LT 7 BLK 6 TH N101.93 SW81.87 S84.47 TO PT ON SL LT 7 E80 POB; LT 4 & PRT LTS 5, 6, 7 & 8 & W10 VAC ALLEY BEG SWC LT 6 TH N101.93 NE117.26 S142.63 W110 POB & E10 VAC ALLEY ADJ ON W LT 4 BLK 13, BROADMOOR ADDN, OAKDALE SUBURB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Presentation:

Michael Joyce, 2121 South Columbia Avenue, Suite LL3, Tulsa, OK; stated he represents Dr. John Fonder, a dentist in Tulsa, and he owns the property on the corner of 15th Street and Norfolk which is zoned office. Dr. Fonder currently operates his dental practice from the subject site. He also owns the property immediately to the west which is a parking lot for his existing building which will stay and is not a part of this proposal. He also owns multiple parcels west of his existing parking lot and those parcels are the subject of the current application. The land owned by Dr. Fonder is not part of Maple Ridge and is not in the historic Maple Ridge neighborhood. It is in the

Broadmoor and Oakdale neighborhoods, the platted subdivisions which virtually do not exist today. Dr. Fonder's office, two homes across the street to the east and a new home built on the cul-de-sac exist but most everything else of Broadmoor and Oakdale is gone. There are no structures on the site. There no history to save here. The history might be in the surrounding areas which would include Maple Ridge. The building was designed to be sensitive to the whole area but it is not in Maple Ridge. When Dr. Fonder acquired the subject parcels his intent was to develop it as it is zoned. The property is currently zoned RM-2, which residential multi-family which in essence is apartments. Dr. Fonder had several options; one, to leave the land vacant which is not a good option; two, to develop it for apartments which would be 35 feet in height.

Mr. Henke asked Mr. Joyce if the building were not to be used as an office building could it be built as designed as residential. Mr. Joyce stated the building could be built with a possible change in location. Most of the office buildings and the apartments in the historic area, which includes Orcutt, Maple Ridge and Cherry Street, look like the proposed design. Dr. Fonder went through great costs with Mr. Westbrook to design a structure that is historically correct to the broader area and the period, not just to what Dr. Fonder wanted. This request is in harmony and the spirit with the intent of the zoning code because the whole corridor has multiple offices in it, as does Peoria and Cherry Street. It will not be injurious to the neighborhood or other detrimental to the public welfare. This building is designed is to be in conformance with the neighborhood. It is designed for people in the neighborhood and that part of Tulsa that want office close to their homes, not in downtown. This development will be high quality and increase values. It has been designed to minimize any impact on the view so that it looks like period but is new. The Code states that the height of an office structure is limited to two stories but the Code is vague. But in looking at the multi-family code which would be allowed, the Code states 35 feet in height so the architect capped the building at 35 feet. The Variance is requesting three stories but the height is still the same that is currently allowed for apartments. A Variance is the relaxation of the restriction of the Code granted by the Board of Adjustment or by reason of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation, condition, or circumstances of a particular property the literal enforcement of the Code will result in an unnecessary hardship.

Mr. Joyce had page 14.21 placed on the overhead projector to discuss the different lots in the area in relation to the setback easements, and the setback easement for the proposed building.

Mr. Joyce stated that the Broken Arrow Expressway came through Broadmoor and Oakdale and took them out. In order to minimize the impact from a visual standpoint along 15th Street, of downtown, and the residences across 15th Street the building needed to be made narrow for as little impact on the east/west view as possible. Because of the narrowness and pie shape of the lot it causes the Variance requests. The building had to be a little closer to the street and go a little higher in stories but not height to build the structure. The shape of the lot has been caused by the trail and the expressway is the reason for the setback Variance request and height.

Mr. Van De Wiele asked Mr. Joyce, if he was building the building as an apartment, what would the setback from the centerline of 15th Street be for the building? Mr. Joyce stated that he would need to refer to the Code because he thought it was different for an office building than a residential building.

Mr. Van De Wiele asked Mr. Joyce what the height is of the existing building on the subject property that the client owns. Mr. Joyce stated that he was not sure but it is a multi-storied building with a peaked roof.

Mr. Van De Wiele asked Mr. Joyce where the cottonwood tree is located that Ms. Meadows has asked the client to remove. Mr. Joyce stated that it is located on the very southeast corner of the subject property. Mr. Joyce stated that his client is committed to heavy landscaping of the property. Mr. Joyce stated that this project is a great opportunity to redevelop midtown in a tasteful and historically consistent manner.

Mr. Joyce stated that he had attempted to contact the Maple Ridge Home Owners Association by going onto their website, and it is out of date. He could not find out who the President of the association is because of the outdated website. So he and Mr. Westbrook walked the neighborhood to get feedback from the residents. Mr. Joyce stated that he appreciates Ms. Meadows' feedback and the client has done everything that could be done to satisfy her. Everyone thought she was committed to the project but apparently she has had a change of heart but that is okay. This is a great project for Tulsa and for midtown. If developments such as this one are not built the historic areas and the midtown areas are going to suffer. New development spurs additional development.

Mr. Joyce referred to a letter that had been received from Cherie Cook with the Coalition of Historic Neighborhoods, and she raised a number of concerns. She stated that this development does not incorporate the historical characteristic of the Maple Ridge neighborhood. This property is not Maple Ridge, it is Broadmoor and Oakdale and they are gone.

Mr. Henke asked Mr. Joyce what subdivision the Family and Children Services is in because the proposed building reminded him of the Family and Children Services building. Mr. Joyce did not know. Mr. Joyce stated that Family and Children Services was a great redevelopment in that area and it has helped the neighborhood to develop and grow.

Mr. Joyce stated that there has been talk about the loss of the old historic houses, but there is nothing there because the land is vacant. There is not going to be a loss of anything. There was talk about the building being nothing but brick and that there is nothing historic in design. It is a new building but Mr. Westbrook and Dr. Fonder went through great effort to design something that looks consistent for the area's time period and all the historic buildings in the area, not just Maple Ridge.

Mr. Joyce believes that the requirements under the Code for the Special Exception have been met. He believes the client has gone a step further by satisfying the additional requirements for the Variances. His client wants to be a good neighbor and asks the residents to be good neighbors by working with him.

Mr. Van De Wiele asked Ms. Miller about the setback requirements if the project were to be apartments. Ms. Miller stated the setback for OL is 15 feet greater than for RM-2.

Ms. Miller informed the Board that there is a Lot Combination application for the subject properties that is to be heard by the Tulsa Area Metropolitan Planning Commission tomorrow, so if the Board chooses to approve this application that should be a condition stated in the motion. Mr. Joyce stated that is just a matter of timing and the calendar of the Planning Commission and the Board; it just worked out that the hearings were back to back.

Interested Parties:

Dru Meadows, 1504 South Norfolk, Tulsa, OK; stated she would like to support Dr. Fonder but she has a number of concerns. Her first concern is that there is critical information missing from the case report. Her second concern is the way the project was presented to her does not match the way she read it in the application which is why she requested a continuance. Her third concern is the evolution of the site seems to be eroding the context and the flavor of the residential neighborhood to the detriment of her property value and her quality of life. Ms. Meadows stated that on page 14.2 states the relationship to the Comprehensive Plan of Main Street, specifically Main Street as defined to be comprised of residential, commercial and entertainment uses along a transit rich street usually two to four lanes wide and includes much lower intensity residential neighborhoods situated behind. Ms. Meadows stated that she would support that definition and would like to see that development in Tulsa. Particularly as they expanded Cherry Street or downtown, and her neighborhood is that section in between. Unless the conversation here can expand into some kind of rezoning she does not think that is possible. The south side of 15th Street is historic and her property must remain single family residential so there is no opportunity for her to do the Main Street on her lot, so she does not believe it is a valid argument for the proposal.

Mr. Henke left the meeting at 3:03 P.M.

Mr. Van De Wiele asked Ms. Meadows what critical information she thinks is missing from the case report. Ms. Meadows stated that it is linked to a Main Street growth design which is not applicable in this section. It is not applicable because it cannot be done unless there is a broader conversation that includes rezoning and redefining the boundaries of the HP.

Mr. Henke asked Ms. Meadows if her house was on the boundary of the HP. Ms. Meadows answered affirmatively. Mr. Henke then asked if she was trying to impose the

expansion of her boundary into Broadmoor and Oakdale. Ms. Meadows stated that she is not, but is suggesting that if this relationship to the Comprehensive Plan is appropriate in this conversation then the reverse is true. The historic edge would have to be pulled back so that her property and all of the properties on the south side of 15th Street are not in historic. Otherwise, they cannot have the commercial and entertainment uses along a transit rich street with a residential behind. Her neighborhood is the buffer and it is right on the street. She thinks it is incorrect and misleading to link this to the Comprehensive Plan in that manner. As she understands the way the main streets are proposed it is along the lines of Cherry Street where there are businesses along the transit rich street with the high density residential along the corridors and less residential behind. As this property is currently zoned it is not possible.

Mr. Henke re-entered the meeting at 3:05 P.M.

Mr. Van De Wiele stated that on the north side of 15th Street, the doctor's office, there are residential behind it on the east side. Ms. Meadows stated that on the north side of 15th Street this description is possible but on the south side of 15th Street this description is not possible.

Ms. Meadows stated that on page 14.3, in the analysis of the surrounding area, it states the subject tract is abutted by OL zoning on the east side which is true and makes it sound like there are a lot of offices there but there is the doctor's office in a converted house and another single story house that has been converted to a business. So this is residential construction. On the south side there is 15th Street with residential zoning and it does not mention the historic district, and clearly that exists.

Mr. Van De Wiele stated if the concern is that the HP overlay is missing from the case report, the HP overlay is shown in a green outline on page 14.1 so the Board is aware that it is there. Ms. Meadows stated that it is not in there, it is critical and should not be dismissed. That is the neighborhood whether it is in historic or not.

Ms. Meadows stated that in the applicant's statement it is said that the shape, topography and other physical characteristics, conditions and the circumstances of the property have been negatively changed over the years by the construction of the freeway. Ms. Meadows believes that is true, however, it is her understanding that the property in question was public property and owned by the Department of Public Transportation. She does not see anywhere in the records, until 2012, that it was acquired or privatized by Dr. Fonder, and she believes that was through adverse possession. Nothing has changed in the physical characteristics since 2012, so Dr. Fonder has been gifted a property that hasn't changed and she fails to see the hardship.

Ms. Meadows stated that in light of similar surrounding uses, structure heights and setbacks, the similar uses are the two converted houses, the story house that either is or isn't part of this discussion depending on where the lines are drawn, and the single story house across the street. Both of the businesses are residential looking, they are residential flavor, they are part of the residential context, and there is no office/commercial until you at Cherry Street or until reach the base of downtown. Mr. Van De Wiele stated the adjoining lot to the immediate west is zoned commercial.

Mr. White left the meeting at 3:07 P.M.

Ms. Meadows stated that on several occasions tried to figure out the process, where the case was going to be heard, and what was involved in the hearing of this case. On no occasion did she hear that there was going to be a lot combination and how it was being structured. So she had to call the City several times and now hears a lot combination case is going to be heard tomorrow which affects this case. Ms. Meadows believes this proposal could not be done unless the lots are combined. If the lots are not combined then they are talking about duplexes and structures that much more closely reflect the current flavor of the neighborhood. She is concerned about what the future implications might be. What she understands, from her discussions with the City, is if the request is approved today it is allowing an office use, it is increasing the height and pushing toward the street, and that will stay with the property. At some point in the future, this could very easily become an office park because the lots are combined. If that happens she will have an island office park opposite her property.

Mr. Van De Wiele stated that when the Board approves requests such as this, the Board approves them per a site plan. The site plan that Mr. Joyce submitted, i.e., as shown on page 14.22, shows one building.

Ms. Meadows stated that is what started her concern. When she tried to get a commitment from Mr. Joyce he would say "unless we do something different". She understands this is just a concept and must go through additional reviews, so what happens if somebody said they didn't want Dr. Fonder to have two curb cuts. Can conditions be placed on the site plan that the building will not go farther east than shown on the site plan today? If that answer is yes, how is that enforced? If the building starts getting constructed differently than what the neighbors agreed to, who do they call? Mr. Van De Wiele stated that anyone can go down to City Permit office and inform they are constructing in violation of the permit; then the City would issue a stop work order. Ms. Meadows stated that would mean the Board would need to be very specific about the conditions attached to project. Ms. Meadows asked, if after the building is built and Dr. Fonder retires and sells, what can the next owner build without needing to come before the Board of Adjustment? Mr. Van De Wiele it would be something that satisfies the approval the Board gave at today's meeting. Ms. Miller stated that would mean the same site plan, but the RM-2 multi-family zoning definition could be utilized.

Ms. Meadows stated the main reason she bought her house was the view across public property to the city skyline. The building height is a concern because it is something that was not bargained for in a residential neighborhood. Could there be a condition placed for opaque windows so no one could see out from the upper floors but the windows would allow light in. Mr. White stated that where that condition was placed on a request is where a building backed up within a very short distance to another property. Mr. Van De Wiele stated there would be 50 feet off the centerline of the street. Ms. Meadows stated that she was very sure that people could look into the windows of her house, because she constructed a sunroom of all windows. Mr. Van De Wiele stated has placed such a condition on a request but it was in a much more intense situation. Ms. Meadows stated she just does not want people to be able to see into her windows.

Mr. White re-entered the meeting at 3:12 P.M.

Mr. Van De Wiele addressed Ms. Meadows comment about the view. Under Oklahoma law a person is not entitled to their view. Ms. Meadows stated what upsets her more is that this has been a bit by bit process with dominoes falling; the first domino being that public property is no longer public. Mr. Van De Wiele asked Ms. Meadows if she believed the applicant acquired the larger piece of property located on the west of the subject lot from the Department of Transportation three years ago. Ms. Meadows answered affirmatively. Mr. Van De Wiele asked Ms. Meadows what her objections were to the piece of property being acquired. Ms. Meadows asked why a person would acquire a piece of property, unless he was intending to develop. She made financial decisions, property value decisions and quality of life decisions based on the neighborhood within the context of what she thought would be enforced in continuing, and now things are changing. Each change is allowable, but once the final tipping point is reached and all of a sudden it is something very different in the impact in the neighborhood. The Main Street conversation that is the next step and no one is talking about that now.

Nancy Berry, 1602 South Madison Avenue, Tulsa, OK; stated she has lived in the neighborhood for 22 years. Her interest in buying the fixer upper in the neighborhood is the fact that it sits on Madison, which was known as Black Gold Road. She lives one block south the subject property. Her house is 100 years old and it is historic. Madison has the boulevard down the middle, and one thing that has not been addressed is pedestrian/bikers safety in the area. What about the safety of the families at the park? Fifteenth Street is very busy and it has taken her about eight minutes to make a left on to 15th Street just to attend today's meeting. Riverside Drive is now just down so traffic will start picking up and add that to the office building traffic the congestion will be ridiculous.

Mr. Van De Wiele asked Ms. Miller when the traffic safety review takes place in this process. Ms. Miller stated she is not sure if this enters the IPE process or plat the

property, but it will definitely be reviewed by Traffic Engineering. Mr. Van De Wiele stated that many departments will review this proposal before it starts construction.

Mike Pinion, 1522 South Madison, Tulsa, OK; stated he bought his house in 1979 when the expressway was being constructed. He bought in the area with the idea that this was going to stay a residential area. He thinks that constructing an office building across the street from Maple Ridge is extremely inappropriate. There are traffic issues on Madison because people cut through the neighborhood and the area is already stressed so this would make it a nightmare. Mr. Pinion stated a three-story building in this area is inappropriate for the residential setting.

Mr. Henke asked Mr. Pinion if he understood that a 35 foot tall building is allowable. Mr. Van De Wiele reminded Mr. Pinion that the client could build the proposed building as an apartment building. Mr. Pinion asked, “a commercial building in our neighborhood?” Mr. Pinion stated that Mr. Joyce said he spoke with a lot of landowners in the area, and he spoke with everyone on Madison and no one has been contacted. Mr. Pinion stated he would like to have a chance to get a petition signed by a large number of residents in the area to let the Board see the opposition to the proposal. Mr. Van De Wiele stated the Mr. Joyce’s survey shows that he spoke with two nearby neighbors, 1515 and 1525 South Madison and several others. Mr. Pinion stated that nobody is for this proposal.

Diane Russell, 1532 South Madison, Tulsa, OK; stated she has lived in the neighborhood for 29 years. This is a historic area and her house is almost 100 years old. Representing this as a multiple use area already is representing the area past Peoria. This area primarily has homes on both sides of the street, it is not multi use. There are only two buildings that are commercial but they are still the houses.

Mr. Van De Wiele stated there is the Grumpy’s location. Ms. Russell admitted to that business being there, and stated that the building used to be a filling station.

Ms. Russell this is by-in-large a historically preserved area on the south side of 15th Street but it is mainly privately owned homes even on the north side of 15th Street, which those houses are new. Mr. Joyce is talking about extending, basically, what is now on Cherry Street into the area on a very small piece of property that is well used by people. This is a misrepresentation. Mr. Joyce wants to make the area a multi-use area but it is not, and this would change the whole landscape which should be taken into consideration. The area is not mostly commercial in any way until a person travels past the Broken Arrow Expressway; this is absolutely a residential area. This will have a huge impact property values and on the whole area. The area is historic for a reason.

Ron Russell, 1532 South Madison, Tulsa, OK; stated that he would think the neighborhood would have a chance to do a fair survey. He did not hear about this meeting until last Friday and all the neighbors have not heard about the proposed project. The neighbors would like a chance to do a fair survey and that is why the continuance was requested.

Chip Atkins, 1638 East 17th Place, Tulsa, OK; stated he does not live in the neighborhood but he did grow up in the neighborhood. He finds it interesting that Mr. Joyce keeps referring to this not being a part of the HP area, which is correct. But he keeps comparing the building and everything else to the HP area so he wants it both ways. Mr. Atkins stated that his objection today is the use of commercial use in a residentially zoned area. With this lot the commercial use sets a precedent that is not good for the neighborhoods that are abutting or have RM-2 within their neighborhood, such as Swan Lake, such as Maple Ridge and other historic neighborhoods and even non-historic neighborhoods in the area. It creates an issue of commercial use, a higher use than what would have been permitted if it was zoned OL. More density is being requested than what would have been with OL. Mr. Atkins admitted the applicant can build what he wants. He could build three apartment buildings on the three lots that are 35 feet high but he doesn't think he would have the parking for them. Mr. Atkins questioned the height issue. It has been said that it is RM-2 but there is no referral to the OL zoning that is abutting that Mr. Joyce keeps including in his plan. The OL is permitted for office use but the RM-2 is not unless there is a Special Exception granted. The office use must be found to be compatible with the surrounding neighborhood. Is a three-story, 8,000+ square foot office building compatible with the surrounding neighborhood of 2,000+ square foot houses? He does not think so. There are several differently zoned areas with a PUD, which the PUD went in with much controversy.

Mr. Van De Wiele asked Mr. Atkins where he was reading the compatibly phrase. Mr. Atkins stated it is on page 14.3, third paragraph from the bottom of the page. Mr. Van De Wiele stated that the standard for a Special Exception is what is seen on page 14.4.

Mr. Henke asked Mr. Atkins what he thought the size of the house being used for the existing dentistry is. Mr. Atkins stated that he thought it was about 3,000 square feet.

Mr. Atkins stated that it has been said people cannot see from 50 feet across the street, but he has a house at 1521 South Troost which abuts the Stillwater Bank parking lot. He can tell when Mr. Drummond is in his corner office of the story. He can tell when people are in the office building and they can look into his backyard.

Mr. Van De Wiele stated that Mr. Atkins is speaking of an abutting situation, and he was pointing out is that there is a 50 foot setback from the centerline of 15th Street then there is a commercial spot. Mr. Van De Wiele stated he cannot tell how far away Ms. Meadows house is, it is not an invalid concern it is just farther away than the situation just described. Mr. Atkins stated the Stillwater Bank is located at 15th and Utica and it is approximately 300 feet to his house located at 1521 South Troost. It does not matter how far away a person is there is still a view into the neighbor's property. Mr. Atkins stated that the domino effect is part of the issue with the City Code and that is what has been happening on 15th Street. That is why Stillwater Bank obtained their property. That is why Panera Bread obtained their property. It is all about the domino effect. There can be a commercial property in a HP zoned area under the Zoning Code. The proposed building is not of size and scale and proportion for the area, and it is going to impact the property values. Mr. Atkins stated the architectural style of the building is a

concern, because to him it looks like an apartment building so is it going to be an office or an apartment.

Charles Bastyr, 1519 South Madison Avenue, Tulsa, OK; stated he has lived in his house for 18 years. He does not believe the proposed building fits the neighborhood. It belongs on Cherry Street not in the residential area. The building is too tall. The building is too close to the street. There will be more traffic problems, especially on Madison. It does not belong in the area at all.

Rebuttal:

Michael Joyce came forward and stated this is not a commercial property. His client is requesting an office light use. It is not going to be a McDonalds. It is not going to be a bar. It is not going to be a restaurant. It is going to be light office with about as low as an impact of use possible, from traffic and occupants of the property. If this were to be apartments, as allowed by the Code, they could be 200 square feet per unit; that would be 50 apartment units and it would have much higher traffic. His client does not want that there. His client will keep it 35 feet in height. It will be landscaped. His client will do what it necessary to make it suitable for the area. Just like any other project, if this is approved, a detailed site plan must be submitted, a detailed landscape plan, and other requirements per the Code. The City, when the zoning clearance permit was submitted, looked at this concept and plan, and they gave the conditions that would need to be met.

Mr. Tidwell left the meeting at 3:52 P.M.

Mr. Van De Wiele asked Mr. Joyce what the hardship would be for the three story building. Mr. Joyce stated that it is because of the width of the lots, the concern for the neighbors, and the unique shape of the property. In order to maximize the view of downtown the building must be squeezed in and forward. Mr. Van De Wiele asked why a one story or a two story building was not chosen. Mr. Joyce stated that in order to obtain 8,000 square feet the building would need to be spread out over the entire lot. Mr. Van De Wiele stated that is a financial issue. Mr. Joyce stated that it is not, because the shape of the lot will not allow the building to be spread out and achieve the same square footage. Mr. Van De Wiele asked Mr. Joyce if that was a financial hardship. Mr. Joyce stated that it was not, because the hardship is the width. His client is attempting to maintain the view, maintain the livability; it is the width and shape of the lot that is unique to the lot. Mr. Van De Wiele stated that he agrees that the dimensions and the shape of the lot, in order to get a 9,000 square foot building, would require the building to be squeezed in and pop it up. But if the client wanted a 12,000 square foot building or a 120,000 square foot building it would need to be squeezed in and pop it up. Is that not driven by a revenue concern for maximizing the commercial value and revenue value in the rental of the units? Mr. Joyce answered no, there is not an economic decision involved in this application. It is not based on economics, it is based on how to best utilize the lot while maintaining the historic look for the area. Mr. Van De

Wiele asked Mr. Joyce why not multi-family. Mr. Joyce stated that he does not think anyone in this room would want a multi-family project on the lot. Tulsa has enough multi-family. Mr. Joyce stated that his client is here to make an economic decision but a development decision that takes into account his interest, his historic interest, his location interest, and the neighbors. The proposed design will not impact Ms. Meadows's view of downtown; she will not even see the building from her front porch. What would impact the neighbors negatively is if this were apartment use versus a nice office building.

Mr. Joyce stated that he asking for reasonable accommodations through the Board. He believes he has taken appropriate steps to show the hardship, and the proposal is not negatively impacting the neighborhood. The project is not compromising the spirit and intent of the Code. He thinks he has satisfied all of the obligations and far beyond for good redevelopment.

Mr. Tidwell re-entered the meeting at 3:54 P.M.

Comments and Questions:

Mr. Van De Wiele asked staff if the Board could consider the Variance for three stories. Mr. Swiney stated that Section 404.G states that office in a RM-2 District can be no higher than two stories and the Board can issue a Variance for this.

Mr. Henke stated that Mr. Joyce is a very good attorney who makes very good arguments. But when he thinks about driving down 15th Street from Peoria toward Boulder, which he does on a regular basis, he thinks this proposed building is going to look out of place. Mr. Henke stated thought it might look less out of place as a two story versus the proposed three story building. Mr. Henke stated the historic preservation cannot be imposed on a property outside the historic preservation boundary. Mr. Henke stated he cannot support this application as it stands despite the arguments.

Mr. Van De Wiele stated that from a look and feel standpoint, the proposed building certainly looks like buildings near the neighborhood. The height of the proposed building does not bother him. But for the immediate vicinity he does not think the building fits in, but it could on Cherry Street. Mr. Van De Wiele stated that he has an issue with the two hardships. He agrees the property is oddly shaped but the premise that is incorrect is that 9,000 square feet can be erected on the square footage of the property and to do that the building must be squeezed and bumped upward, and he does not think this appropriate. Ultimately this is self imposed because somebody on the applicant's side selected 9,000 square feet or it is financially driven. He is not convinced he could support this request.

Mr. White stated the fact that the 35 feet is being adhered to is good. The fact that Code states two stories and not the three stories creates a hardship for the applicant through the Code. The office use is there and he cannot see it as a deterrent. He is

having difficulty with the neighbors pushing that this is a historic area, and he sees a boundary line. Everything north of 15th Street, the concerns of pedestrians crossing 15th Street in the crosswalk, and all the other concerns are irrelevant as far as this particular property is concerned. Things change, have changed and will continue to change over time. In that respect, the HP area stays as it is which is good; there will be no commercial buildings imposed on them and the HP is in place to protect the neighbors. Mr. White stated that it does not quite fit the area; it could be great east of Peoria.

Mr. Tidwell stated that the proposed building is too intense on the subject lot; 9,000 square feet is too much and too imposing on the neighbors. Mr. Tidwell stated he cannot support the request.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **DENY** the request for a **Special Exception** to permit an office (Use Unit 11) in the RM-2 District (Section 401, Table 1); **Variance** to reduce the required building setback from the centerline of East 15th Street from 85 feet to 50 feet; **Variance** to permit a 3-story office building in the RM-2 District (Section 404.G), finding that the use is not be in harmony with the spirit and intent of the Code and it would result in injury to the neighborhood. The accompanying Variances are denied for want of hardship; for the following property:

PRT LTS 1,2,6 & 7 & VACATED ALLEY BLK 6 BEG SECR LT 7 BLK 6 TH N101.93 SW81.87 S84.47 TO PT ON SL LT 7 E80 POB; LT 4 & PRT LTS 5, 6, 7 & 8 & W10 VAC ALLEY BEG SWC LT 6 TH N101.93 NE117.26 S142.63 W110 POB & E10 VAC ALLEY ADJ ON W LT 4 BLK 13, BROADMOOR ADDN, OAKDALE SUBURB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21926—Douglas Vay

Action Requested:

Verification of the spacing requirement for a liquor store of 300 feet from blood banks, plasma centers, day labor hiring centers, bail bond offices, pawn shops, and other liquor stores (Section 1214.C.3). **LOCATION:** 1660 East 71st Street South (**CD 2**)

Presentation:

Mark Ballenger, 5747 South 70th East Avenue, Tulsa, OK; no formal presentation was made but the applicant’s representative was available for any questions from the Board.

Mr. Henke stated that the Board had received the applicant’s surveyor certificate which is on page 15.10 in the Board’s agenda packet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant’s verification of the spacing requirement for the proposed liquor store of 300 feet subject to the action of the Board being void should another liquor store or other conflicting use be established prior to the establishment of this liquor store; for the following property:

PRT BLK 2 BEG NEC TH S227.60 TH ON CRV RT170.93 W166.84 S18 W24.94 S14.32 W40.63 NW33.33 W68.33 NW71.67 TH ON CRV RT202.61 N111.42 TH ON CRV RT47.12 E335.01 POB, KENSINGTON, KENSINGTON II, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Van De Wiele left the meeting at 4:05 P.M.

21927—Buck Davies, III, AIA

Action Requested:

Variance of the maximum floor area ratio permitted in BOA-15359 from .63 to .70 to permit a future addition; Modification of a previously approved site plan (BOA-15359) to permit additions. **LOCATION:** 1519 South Quincy Avenue East **(CD 4)**

Mr. Van De Wiele re-entered the meeting at 4:07 P.M.

Presentation:

Greg Ward, Architect, 13529 South 117th East Court, Broken Arrow, OK; stated he represents Christ the King Church for the Diocese of Tulsa. The addition in the conceptual plan would bring the floor area ratio to .66. That addition shown on the conceptual plan in the bilateral area will be a two-story building with a partial basement in place of an existing three-car garage for the rectory. The other addition will be a small vestibule enclosure as shown on the conceptual plan.

Mr. Van De Wiele asked if the covered sidewalk area shown on the site plan was going to be enclosed. Mr. Ward stated that it will not but it will be covered by a canopy or roofing.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Snyder absent) to **APPROVE** the request for a Variance of the maximum floor area ratio permitted in BOA-15359 from .63 to .70 to permit two future additions; Modification of a previously approved site plan (BOA-15359) to permit additions, subject to conceptual site plan 16.18. Finding that the ongoing operations of the church and school on the property now require these additions to serve the parishioners and the students. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan. In connection to the modified site plan the Board has found that the modifications are compatible with and non-injurious to the surrounding area meeting the previously granted Board relief or the zoning requirements per Code; for the following property:

LTS 1 THRU 16 BLK 6, ORCUTT ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21930—Eight One Eight, LLC

Action Requested:

Verification of the spacing requirement for an Adult Entertainment Establishment (bar) of 50 feet from an R District and 300 feet from a public park, school, or church (Section 1212a.C.3). **LOCATION:** 314 South Elgin Avenue **(CD 4)**

Mr. Van De Wiele recused himself and left the meeting at 4:12 P.M.

Presentation:

Elliott Nelson, 2142 East 25th Place, Tulsa, OK; stated this is for Fasler Hall. No formal presentation was made but the applicant was available for any questions from the Board.

Mr. Henke stated that in the staff comments it talks about the church use not being principle to the church itself.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-1 (Henke, Tidwell, White "aye"; no "nays"; Van De Wiele "abstaining"; Snyder absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant's verification of the spacing requirement for the proposed bar subject to the action of the Board being void should another conflicting use be established prior to the adult entertainment establishment; for the following property:

LT 2 BLK 116, TULSA-ORIGINAL TOWN, 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 4:13 p.m.

Date approved: 7/28/15

Francis X. Henke, II
Chair