

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1162
Tuesday, May 24, 2016, 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 Snyder Van De Wiele White, Vice Chair Flanagan		Miller Moye Sparger Foster	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, May 19, 2016, at 2:44 p.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 1:00 p.m.

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

MINUTES

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the May 10, 2016 Board of Adjustment meeting (No. 1161).

UNFINISHED BUSINESS

None.

NEW APPLICATIONS

22066—Phillip Reed

Action Requested:

Special Exception to permit a carport in the street yard in the RS-3 District with a modification of the requirement that all sides of the carport be open and unobstructed (Section 90.090-C.1). **LOCATION:** 1617 East 56th Court South (**CD 9**)

Presentation:

Phillip Reed, 1617 East 56th Court, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Henke asked Mr. Reed how long the carport had been in existence. Mr. Reed stated that it has been in place for a few months. Mr. Reed stated that he and his wife are ill and they decided to build the carport to allow them access to their cars without getting into the weather. Mr. Reed stated that the company he had erect the carport never told him that he needed a permit so he was unaware of that requirement.

Mr. White stated that there have been similar carport requests through the years and his concern is the side covering on the carport. Mr. White stated that he is surprised there is no one here to object because a lot of neighbors object to carports such this. Mr. Reed presented pictures showing other carports in his neighborhood.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. White stated that he does not want to see this structure become another garage by adding a door to it in the future. Ms. Snyder concurred.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Special Exception to permit a carport in the street yard in the RS-3 District with a modification of the requirement that all sides of the carport be open and unobstructed (Section 90.090-C.1), subject to the “as built” as shown on page 2.6 in the Board’s agenda packet. This approval is subject to the condition that the front of the carport is to remain open and that no garage door or other obstruction or enclosure be constructed on the front of the carport. This approval will expire 15 years from today’s date, May 24, 2031. 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:

LT 9 BLK 9, CORONA HGTS ADDN B8-12 & RESUB PRT L8 B1 OF B1-2-3, City of Tulsa, Tulsa County, State of Oklahoma

22068—Marco Lopez and Eluira Saldivar

Action Requested:

Special Exception to allow a manufactured home in the RS-3 District (Section 5.020, Table 5-2); Variance to extend the 1 year time limitation (Section 40.210.B).

LOCATION: 2025 East 50th Street North **(CD 1)**

Presentation:

Marco Lopez, 2025 East 50th Street North, Tulsa, OK; stated that he and his wife would like to have a manufactured home on the property to live in. They have owned the property for about 18 months and are saving to build a house in the future.

Mr. Henke asked Mr. Lopez where he planned on placing the manufactured home on the property. Mr. Lopez stated that it will be about 140 feet from each side and will be about the middle of the acreage.

Mr. Lopez stated that there was a driveway started for the property and he plans on finishing that then concreting it in the future, and plans on pouring a concrete slab for the manufactured home to sit on.

Mr. Henke asked Mr. Lopez how soon he thought he would be able to pour the concrete for the driveway. Mr. Lopez stated that he would like to start the drive in a month or so. Mr. Henke asked Mr. Lopez if he thought he could have the driveway completed within a year. Mr. Lopez answered affirmatively.

Mr. White asked Mr. Lopez if he would be purchasing a new or used manufactured home. Mr. Lopez stated that he is looking for a nice used manufactured home.

Mr. White asked Mr. Lopez what sort of time frame were his plans for building the house. Mr. Lopez stated that he hopes to be able to start building a small frame house in about five or six years. Mr. White asked Mr. Lopez if the Board were inclined to approve this request would five years be sufficient time for him to build a house and remove the manufactured home. Mr. Lopez stated that he would like to have more time. Mr. White asked if ten years would be enough time. Mr. Lopez answered affirmatively.

Ms. Snyder asked Mr. Lopez about the structure located on the southwest corner of the subject property. Mr. Lopez stated that it is a concrete slab and is hoping to be able obtain a permit to have a shop in that location.

Ms. Snyder asked Mr. Lopez if he had spoken with the neighbors. Mr. Lopez stated that he had spoken with the neighbors and everyone is in support of this request.

Mr. White stated that there is no relief asked for in regards to the screening requirement and wanted to know what was to happen there. Ms. Moye stated the applicant will have to meet the screening requirements because he did not request relief. Ms. Moye stated that she did have a conversation with the applicant regarding the screening that is required.

Interested Parties:

Marvin Brazeal, 2101 East 50th Street North, Tulsa, OK; stated he lives just east of the subject property. Mr. Brazeal stated that he does not object to the trailer, but he would prefer a framed house. He objects to a six foot wooden privacy fence because that will box him in, but he does not have a problem with the request.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Special Exception to allow a manufactured home in the RS-3 District (Section 5.020, Table 5-2); Variance to extend the 1 year time limitation (Section 40.210.B) to ten years from today’s date, May 24, 2026. The approval is subject to the conceptual site plan 3.9 and is subject further that the applicant will have one year from the date of today’s meeting, May 24, 2017, to install the all weather drive or other access and parking pad. The Special Exception will expire ten years from today’s date, May 24, 2026. 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. The Board has found that the nearly five acre tract of land is large enough to support a mobile home given the restrictions that have been applied today and the Board determines 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 4, HUGHEY ACREAGE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22069—Mark Capron

Action Requested:

Special Exception to permit a fence height greater than 4 feet in the required street setback (Section 45.080-A). **LOCATION:** 2258 East 31st Street South **(CD 9)**

Presentation:

Greg Weisz, Sisemore, Weisz and Associates, 6111 East 32nd Place, Tulsa, OK; stated that the subject property recently underwent a lot split creating two tracts; one of 31st Street and the other one on Lewis Avenue. In conjunction with the lot split there was a change of access processed and a mutual access agreement creating a single driveway for both lots on the western portion of the property. With the current configuration it is the best location for the one drive. The homes will front the mutual access easement to the west which means the Lewis side of the property will be the back yard. Mr. Weisz stated that there are many six foot tall fences in the street yard in the area.

Mr. Van De Wiele asked Mr. Weisz what type of fencing will be erected on the property. Mr. Weisz stated that he anticipates that the fence will be a six foot wooden fence. Mr. Van De Wiele asked if that would be both on the 31st Street and the Lewis Avenue sides. Mr. Weisz answered affirmatively.

Mr. Weisz stated that if a gate is installed on the driveway there will be a lock box placed on the fence per the Fire Marshall's request.

Mr. Van De Wiele asked Mr. Weisz if the front of the house would be facing the drive. Mr. Weisz answered affirmatively.

Ms. Snyder asked Mr. Weisz how far into the setback is the fence placement. Mr. Weisz stated the fence will be set 50 feet from the section line on Lewis Avenue and follow the right-of-way on the long radius of the intersection.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that he would like to see something more ornamental or decorative because the fence will be in the front yard.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-1-0 (Henke, Flanagan, Snyder, White “aye”; Van De Wiele “nay”; no “abstentions”; none absent) to **APPROVE** the request for a **Special Exception** to permit a fence height greater than 4 feet in the required street setback (Section 45.080-A), subject to conceptual plan 4.11. The fence is not to exceed six foot in height. 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:

LT 1 BLK 1, OAKNOLL, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22070—Jimmy Eubanks

Action Requested:

Special Exception to permit detached household living in the CH District (Section 15.020); **Special Exception** to permit a Type 2 Home Occupation in the CH District (Section 45.100). **LOCATION:** 1613 South Cincinnati Avenue East (**CD 4**)

Presentation:

Jimmy Eubanks, 1613 South Cincinnati Avenue, Tulsa, OK; stated that there used to be a house on the subject property that was built in 1910 and he wanted to be to renovate it but it was not possible so it was demolished. Now he would like to build a Craftsman style house to blend into the area. It will be a residential house and he and his wife will live upstairs utilizing a kitchen space downstairs with an insurance agency and a photography boutique downstairs. His insurance agency does not have a lot of walk-in business and his wife will have a photography boutique office downstairs also. Mr. Eubanks believes this will add value to the neighborhood. Mr. Eubanks’ intent is to eventually have the house strictly as an office as the businesses expand.

Mr. Van De Wiele asked Mr. Eubanks if he or his wife had employees. Mr. Eubanks stated that he has one employee. Mr. Eubanks stated that he has a small office currently but most of the business is done on-line or out of state.

Mr. Van De Wiele stated that according to the home occupation restrictions the home owner can have one non-resident employee if no customers or clients come to the subject home. Mr. Eubanks stated that he does not have customers that come to his site. His wife does the photography off site and rents a space elsewhere.

Mr. Van De Wiele asked Mr. Eubanks if their plans were to use the downstairs space as administrative and billing procedures. Mr. Eubanks answered affirmatively. Mr. Eubanks stated that his hope is that as he grows he will transition the house into commercial.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Special Exception to permit detached household living in the CH District (Section 15.020); Special Exception to permit a Type 2 Home Occupation in the CH District (Section 45.100), subject to per plan 5.8. Finding the Special Exceptions 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 6 LESS BEG NEC LT 6 TH W62 S50 E43.6 NELY54 POB BLK 12, MAPLE PARK ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22071—Phillip Noland

Action Requested:

Variance to reduce the required street setback in the RS-1 District (Section 5.030-A). **LOCATION:** 3164 South Gary Place East **(CD 9)**

Presentation:

Phillip Noland, 3164 South Gary Place, Tulsa, OK; stated he would like to renovate his house and have a small addition on the back of the house that will be about 320 square feet and a small covered porch on the front of the house. When the neighborhood was platted it was platted with 30 foot building line which is now 35 feet. The house was built without meeting those standards and at the worst part of the house it is about seven feet over the building line.

Mr. Van De Wiele asked Mr. Noland if he was expanding the footprint of the front porch and covering it. Mr. Noland stated that he is removing what currently exists and it will about one foot wider but the same distance outward. Mr. Noland stated that he is just architecturally adding a dormer.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Variance to reduce the required street setback in the RS-1 District (Section

5.030-A), subject to conceptual plan 6.11 and the conceptual drawings submitted today showing the construction that is to be performed on the property that was built over the original building setback line as well as the current existing 35 foot setback line. The Board determines 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 15 BK 5, RANCH ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22072—Hugh Long

Action Requested:

Special Exception to permit a church use on AG zoned property (Section 25.020); Variance of the allowable display surface area for a wall sign on Tract 1 in the AG District from 32 square feet to 37.5 square feet; Variance to permit two wall signs per public entrance on Tract 2 in the AG District; Variance of the allowable display surface area for wall signs on Tract 2 from 32 square feet to 113.08 square feet in the AG District (Section 60.050). **LOCATION:** 8555 & 8855 East 91st Street South (CD 7)

Mr. Van De Wiele recused and left the meeting at 1:52 P.M.

Presentation:

Hugh Long, 320 South Boston Avenue, Tulsa, OK; stated this is a fairly large lot and was previously two separate parcels. Mr. Long stated that he will refer to the larger

parcel to the west as Parcel 1 and the smaller parcel to the east as Parcel 2. Before the current owner purchased the property Parcel 1 and Parcel 2 each had a church on them and they are still standing. The idea is to use them as a single campus. The property is zoned agricultural. The signs for Parcel 1 will be for the church youth ministry with one 37.5 square foot wall sign for the student center. The student center is not used as a school and is more of a youth group center with one public entrance to the building. The sign will have a plastic front and will be back lit. The Parcel 2 facility will be used as the main church sanctuary where services will be held. This building has two public entrances. This building will have the larger sign placed on the building which be a black metal sign and back lit. The last sign will also be a back lit sign. The owner does not intend to erect a free standing monument sign and has determined that the requested signs will be understated yet visible.

Ms. Snyder asked if there were to be any digital signs. Mr. Long stated that there are no digital signs.

Mr. White asked Mr. Long if he spoke to the neighbors. Mr. Long stated the property sent out notices before the City sent out their notices and had two open houses to allow the neighbors to review plans and ask questions. It is Mr. Long understands that no one took up the offer to review the signs and there was no feedback received on the request.

Mr. Long stated that there have been two churches operating on the parcels for at least 25 years. Currently the Special Exception allowing church use on Parcel 1 was a “per plan” Special Exception. The Special Exception on Parcel 2 is not per plan but was approved for church use. Most of the large parcel is in a flood plain so development is very limited on that parcel. There are also multiple pipelines and utility easements going under that parcel as well.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Flanagan, Snyder, White “aye”; no “nays”; Van De Wiele “abstaining”; none absent) to **APPROVE** the request for a Special Exception to permit a church use on AG zoned property (Section 25.020); Variance of the allowable display surface area for a wall sign on Tract 1 in the AG District from 32 square feet to 37.5 square feet; Variance to permit two wall signs per public entrance on Tract 2 in the AG District; Variance of the allowable display surface area for wall signs on Tract 2 from 32 square feet to 113.08 square feet in the AG District (Section 60.050), subject to conceptual plans 7.24, 7.25 and 7.26. The Board has found that there is a combination of two former church properties into one church property so there is no change in the usage of the land. It is to be noted that there are

no neighborhood objections or any negative comments in regards to the signage. All the signs are to be backlit. 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. The Board determines 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:

A TRACT OF LAND THAT IS PART OF THE W/2 OF THE SE/4 OF THE SW/4 AND PART OF THE E/2 OF THE SE/4 OF THE SW/4 OF SECTION 13, T-18-N, R-13-E OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, OKLAHOMA, AND ALL OF LOT 1 IN BLOCK 1 OF 'CALVARY BIBLE CHURCH', AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT "BEGINNING AT A POINT" THAT IS THE SOUTHWEST CORNER OF SAID W/2 OF THE SE/4 OF THE SW/4; THENCE N 00°15'29" E ALONG THE WESTERLY LINE THEREOF AND ALONG THE EASTERLY LINES OF 'SQUARE NINETY-ONE' AND 'CARMAN MINISTRIES, INC. HEADQUARTERS', BOTH ADDITIONS TO THE CITY OF TULSA, ACCORDING TO THE RECORDED PLATS THEREOF FOR 1320.11 FEET TO THE NORTHWEST CORNER OF THE W/2 OF THE SE/4 OF THE SW/4; THENCE N 89°59'57" E ALONG THE NORTHERLY LINE THEREOF FOR 659.28 FEET TO A POINT THAT IS THE NORTHEAST CORNER THEREOF, SAID POINT ALSO BEING THE NORTHWEST CORNER OF 'LIVING WORD MISSIONS', AN ADDITION TO THE CITY OF TULSA, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE S 00°14'43" W ALONG THE EASTERLY LINE OF THE W/2 OF THE SE/4 OF THE SW/4 AND THE WESTERLY LINE OF SAID 'LIVING WORD MISSIONS' FOR 595.12 FEET TO A POINT THAT IS THE NORTHEAST CORNER OF LOT 1 OF SAID 'CALVARY BIBLE CHURCH'; THENCE CONTINUING S 00°14'43" W ALONG SAID EASTERLY AND WESTERLY LINES AND ALONG THE EASTERLY LINE OF LOT 1 FOR 380.00 FEET

TO A POINT THAT IS THE MOST WESTERLY SOUTHWEST CORNER OF LOT 1 IN BLOCK 1 OF 'LIVING WORD MISSIONS'; THENCE DUE EAST ALONG A SOUTHERLY LINE OF SAID LOT 1 AND PARALLEL WITH THE SOUTHERLY LINE OF THE SW/4 OF SECTION 13 FOR 230.00 FEET; THENCE S 00°14'43" W ALONG A WESTERLY LINE OF LOT 1 FOR 45.00 FEET; THENCE DUE EAST ALONG A SOUTHERLY LINE OF LOT 1 AND PARALLEL WITH THE SOUTHERLY LINE OF THE SW/4 FOR 100.00 FEET; THENCE S 00°14'43" W PARALLEL WITH THE WESTERLY LINE OF THE E/2 OF THE SE/4 OF THE SW/4 AND ALONG A WESTERLY LINE OF LOT 1 AND THE SOUTHERLY EXTENSION THEREOF FOR 300.00 FEET TO A POINT ON THE SOUTHERLY LINE OF THE SW/4; THENCE DUE WEST ALONG SAID SOUTHERLY LINE FOR 330.00 FEET TO A POINT THAT IS THE SOUTHEAST CORNER OF THE W/2 OF THE SE/4 OF THE SW/4; THENCE N 00°14'43" E ALONG THE EASTERLY LINE THEREOF FOR 50.00 FEET TO A POINT THAT IS THE SOUTHEAST CORNER OF LOT 1 IN BLOCK 1 OF 'CALVARY BIBLE CHURCH'; THENCE DUE WEST ALONG THE SOUTHERLY LINE OF LOT 1 FOR 579.42 FEET TO A POINT OF CURVE; THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF LOT 1 ON A CURVE TO THE RIGHT WITH A CENTRAL ANGLE OF 90°15'10" ON A RADIUS OF 30.00 FEET FOR 47.26 FEET, HAVING A CHORD BEARING OF N 44°52'17" W FOR A CHORD LENGTH OF 42.52 FEET; THENCE S 00°15'29" W AND PARALLEL WITH THE WESTERLY LINE OF THE W/2 OF THE SE/4 OF THE SW/4 FOR 80.14 FEET TO A POINT ON THE SOUTHERLY LINE OF THE SW/4; THENCE DUE WEST ALONG SAID SOUTHERLY LINE FOR 50.00 FEET TO THE "POINT OF BEGINNING" OF SAID TRACT OF LAND. THE PROPERTY DESCRIBED ABOVE CONTAINS 949,182 SQUARE FEET OR 21.79 ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Van De Wiele re-entered the meeting at 2:06 P.M.

22073—Nathan Cross

Action Requested:

Variance of the required parking for Escape Tulsa from 12 spaces to 10 spaces (Section 55.020). LOCATION: 1448 South Carson Avenue East (CD 4)

Presentation:

Nathan Cross, 502 West 6th Street, Tulsa, OK; stated that a development plan has been worked on for over a year for the subject property. The subject property has been commercial property for many years but it has been rezoned. The property had to be rezoned because of the business that is there now. The business is unique and is called "Escape Tulsa" and it is a team building concept. The business did not fit under any zoning classification and technically the business falls under the entertainment category even though this business does not really have a category because the concept was not thought of when the zoning language was compiled. The use is relatively low in intensity and people must have appointments to attend. The neighbors

were generally fine with the concept but their concern was what would happen in the future if the property were to be rezoned. The subject use went through a long process and working with INCOG staff, the Planning Commission, the neighborhood and the City Council to come up with a workable plan that restricted the use moving forward to just this concept or an office with the potential of turning the property back into a single family home. Unfortunately that heavily restricted the applicant's ability to do anything with the subject lot. The applicant has agreed, as part of the concept, not to make any changes whatsoever to the building other than cosmetic or maintenance. The property has an existing lot with ten spaces and under the new Code this zoning classification requires 12 spaces for the size of the structure thus the request. Mr. Cross stated there is a verbal agreement with the neighbor to the north to be able to use two of his spaces during the subject business's operating hours which are not the same as the law firm's business hours. The subject business operates in the evenings primarily. Mr. Cross believes the lot is wide enough to have two on-street parking spaces. In order to minimize the parking on the street when a reservation is made to attend a function at Escape Tulsa the person is told they cannot park on the street and if they cannot find a space in the business's lot contact the venue and they will help the person to locate a parking space. The employees park in the spaces that are in front of the street and parking has not been a problem up to this date. There have been no issues with traffic or congestion. The business has been operating for a couple of months now since the zoning has been approved.

Mr. Van De Wiele asked Mr. Cross if the business was up and fully running at this point in time. Mr. Cross stated the owner has one room that has not been opened because it is not up to code as of yet.

Mr. Cross stated that the owner has other locations, one in Oklahoma City, one in Branson and one in Omaha. It is his experience that the existing parking spaces on the subject property are sufficient for his use. Again, this is by appointment and that is one of the things that is stressed when making the appointment, the clients should make every effort to carpool.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the required parking for the subject property from 12 spaces to 10 spaces (Section 55.020), subject to the parking layout as shown on page 8.12. The Board has found that the business operation on the subject property has provided for overflow parking on an adjacent lot and that the nature of the business conducted at the

property the ten spaces will be sufficient for that use. The Board determines 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:

LOT 37 BLK 3, CARLTON PLACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22074—Claude Neon Federal Signs

Action Requested:

Variance to allow a dynamic display within 200 feet of an R District (Section 60.100-F). **LOCATION:** 3902 East 11th Street South **(CD 4)**

Presentation:

Terry Howard, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, OK; stated that Phillips is going around the country and visiting their stores that qualify for the new image signs and the company is adding a message board with a new Phillips sign to the new signs. The subject sign is on 11th Street and orients toward 11th Street; it does not face the neighborhood. Since the sign is not oriented toward the neighborhood it will not shine into the neighborhood and the current sign is a legal sign. The current sign has the LED price sign on the top now and the company would like to add the LED message center to the sign.

Mr. Van De Wiele asked Mr. Howard to compare the new sign to the existing sign and what the planning is for the sign. Mr. Howard stated the new sign will be basically the same size and the message center is smaller than what currently exists.

Ms. Snyder stated the new sign is 18 feet tall and the old sign is about 16 feet tall. Mr. Howard stated the Phillips 66 shield on the top of the sign takes it to the 18 foot height; the shield is the new logo look for the company pole signs.

Mr. Van De Wiele asked Mr. Howard if he had heard from the neighbors to the south of the subject property. Mr. Howard stated that he has not.

Interested Parties:

Dan Brown, 3823 East 11th Place, Tulsa, OK; stated that he is opposed to this request and presented pictures to be displayed on the overhead projector showing the subject property sign as seen over his back fence. Mr. Brown stated that he has lived in his house for 44 years and the City has allowed a lot of nuisances through the years with the subject property. Mr. Brown quoted a section of the Zoning Code, Section 60.100-K, which he thinks applies to this situation. Ms. Miller stated that Section 60.100-K refers to billboard signs.

Mr. Brown stated the subject property has become a problem through the years starting with an unscreened dumpster. The subject property did have two fences but one was torn down by vigilantes and the other fence was blown over by the wind. When the car wash was installed the dumpster was moved to his side of the property along with the delivery trucks parking for unloading. Starting at 5:00 A.M. there are constant deliveries being made by trucks that are noisy.

Mr. Henke asked Mr. Brown how tall his fence is. Mr. Brown stated that the fence is about five feet in height at this location taken in the pictures being shown and explained, and the fence on the other side is about six feet in height.

Mr. Brown stated that the existing sign can be very distinctly read at night because the lighting is very brilliant and shines onto his property and now Phillips wants their sign to dance. That is his objection to this. He believes if the sign were to be moved over to the east side of the property the neighborhood would not be able to see it. Mr. Brown stated that if the subject Phillips would install masonry screening similar to the 15th and Harvard location most of this would not be a problem.

Mr. Henke asked Mr. Brown if it would help if the company built him an eight foot fence around the property. Mr. Brown stated that it would alleviate most of it but the fence would have to turn the corner and go down the alley from the building toward the driveway to keep the lighting and the truck noise at bay. Mr. Brown stated that fencing will not touch the sign light pollution and he can't afford to install a fence that is going to cost thousands of dollars. Mr. Henke stated that he is suggesting that the company may be willing to erect a new eight foot fence for him. Mr. Brown stated that would obliterate the lights. The old lights were damaged by vandals and when the new lights were installed they were a lot brighter. There are lights in the alley as well and they all shine toward his property so he does not think an eight foot fence would block out the lighting.

Mr. Van De Wiele asked Mr. Brown if there was another sign located on 11th Street that is perpendicular from the car wash. Mr. Brown answered affirmatively and stated that the sign says “car wash”. Mr. Brown stated that if the proposed sign were to be installed where the car wash sign is located he would not even be here today.

Rebuttal:

Mr. Howard came forward and stated that he spoke with his client, and the new lights on the side of the building were installed after vandalism and as a request from the Police Department for better lighting.

Mr. Van De Wiele asked staff if it was permissible lighting. Ms. Miller stated that she did not think it is allowed because the lights need to be shielded.

Mr. Howard stated that the proposed sign can be dimmed down and can be shut off at specified times, i.e., midnight.

Mr. Van De Wiele asked if the store was a 24 hour location. Mr. Howard answered affirmatively.

Mr. Henke stated that he cannot support this request unless the residential concerns can be mitigated.

Mr. Van De Wiele asked Mr. Howard if the sign could be moved down and directly east in front of the car wash. Mr. Howard stated that location is where the old DX sign was located and removed years later with the new car wash sign replacing it.

Mr. Henke suggested the case be continued to allow the client time to work on the concerns that were raised today. Mr. Howard agreed.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **CONTINUE** the request for a Variance to allow a dynamic display within 200 feet of an R District (Section 60.100-F) to Board of Adjustment meeting on June 28, 2016; for the following property:

LTS 8 THRU 12 BLK 1, MAYO ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22076—Eller and Detrich – Andrew Shank

Action Requested:

Special Exception to permit a salon in the OL District (Section 15.020).

LOCATION: 1724 East 15th Street South **(CD 4)**

Presentation:

Andrew Shank, Eller and Detrich, 2727 East 21st Street, Suite 200, Tulsa, OK; stated this request is to allow a salon to be in an existing structure. When the application was filed his client made it clear that the existing structure is going to stay as is. There have been conversations with several of the neighbors. One of those neighbors was Chip Atkins and he said that he is in support of this request in large part because the structure will remain as is. The use is a change in use and there may be some interior remodeling which will be permitted. The existing structure is located in OL which is office light. There is already striped parking which exceeds the Code requirements. A neighbor, Ms. Susan McKee, expressed some concerns about the traffic that will be generated by this use. Mr. Shank disagrees with those thoughts that this an increase in intensity of use but what has been done is that the land owner of the Arvest Bank located at the corner of 15th and Utica has agreed to allow overflow parking if needed. Mr. Shank stated that the land owner for Arvest Bank and the subject property are one in the same. The neighbors also agreed with the request because his client has agreed to limit the Special Exception request with term of lease of the property. Currently his client has a five year term lease with the option of an additional five year term lease. Mr. Shank asked the Board, if inclined to approve this request, to give the five year limit with an automatic continual if his client opted to extend the lease the additional five years.

Mr. Van De Wiele stated that is a creative solution and he asked Legal if the motion could be worded to allow the ten years if it is needed. Ms. Blank stated that she is not sure what sort of mechanism could be used to track that time limit. Mr. Van De Wiele suggested the Board could say the approval could be for a five year period of time provided and if the applicant provided proof that they extended their lease before five years from today the approval number would go from five to ten. Ms. Blank stated that it would be cleaner to have the applicant apply for another Special Exception. Ms. Miller stated the suggested motion would be binding a future Board of Adjustment process to be approved in that manner and to her it does not sound right.

Mr. Shank stated that he was thinking that the Board routinely makes requirements as a part of Special Exception cases, i.e., screen the property line, pave the drive, and come back before the Board to show that it has been completed. There are mathematical requirements throughout the Code, i.e., show that the billboard is 1,200 feet from another billboard. Mr. Shank stated that he wanted to give the business owner that protection in that the case is not being brought back before the Board to see if it is injurious to the neighborhood, but it is questioning if there is still a lease. Mr. Shank stated that his fear is that the client extends for the additional five year term and are contractually bound to pay rent and doing everything for the landlord at the subject

location without the comfort that the Special Exception could be elected to continue for that ten year term. His client could be caught in the scenario where contractually they are obligated to pay rent and be at the premises but for whatever reason if the Board elects to deny a new application for a Special Exception they would be obligated.

Mr. Henke stated that he does not have a problem with allowing a salon at the subject location as it stands today for ten years.

Mr. Shank stated that the staff report states that the applicant intends to have six chairs. This is a locally owned start-up so it will take awhile to reach that point but the six chairs would be the outward limit. Mr. Shank suggested the hours of operation would be 10:00 A.M. to 8:00 P.M., Tuesday through Saturday.

Mr. Van De Wiele asked Mr. Shank what is currently on the property, or what was on the property prior to today's request. Mr. Shank stated the site has been office use.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a salon in the OL District (Section 15.020), subject to the property as constructed. The Board has found that the applicant has stated that the property will not be modified from the exterior and with only interior renovations. This approval is subject to a ten year time period from today's date, May 24, 2026. 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:

E/2 LTS 1 & 2 LESS BEG NEC LT 1 TH S7 NW11.41 E9 POB BLK 1, ORCUTT ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22077—Jack Arnold

Action Requested:

Special Exception of the wall height from 4 feet to 8 feet in the required front yard in the RS-1 District (Section 45.080-A). **LOCATION:** 2455 East 27th Place South (CD 4)

Presentation:

Jack Arnold, 7310 South Yale, Tulsa, OK; stated he is the architect and represents the property owner. His client also owns the lot next door to the subject property and is requesting an extension of an existing wall. The look of the existing wall will continue westward and toward the north. Mr. Arnold stated that he has a letter from a neighbor showing support because it will help them with some of their drainage problems. Mr. Arnold stated that he has nothing stating opposition to the request. This request will not impact the neighborhood in any way. Currently there is an opening in the wall that allows the water to drain in the event high water approaches. The new wall will match the existing wall.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Special Exception of the wall height from 4 feet to 8 feet in the required front yard in the RS-1 District (Section 45.080-A), subject to the drawing submitted today showing the exact location of the wall and page 11.16 for the appearance of the wall. One of the purposes of the construction of the wall is to mitigate drainage issues in the neighborhood. 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:

LT 8 BLK 2, WOODY-CREST SUB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22078—Claude Neon Federal Signs

Action Requested:

Special Exception to permit a dynamic display for Owen Elementary in the RS-3 District (Section 60.050-C). **LOCATION:** 1132 North Vandalia Avenue East (**CD 3**)

Presentation:

Jerry Compton, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, OK; no formal presentation was made but the applicant was available for questions from the Board.

Mr. Henke asked Mr. Compton if they were just changing out the sign for a newer sign. Mr. Compton answered affirmatively. This sign will be the same type that has been erected in the past and approved for Tulsa Public Schools in the past.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Special Exception to permit a dynamic display for Owen Elementary in the RS-3 District (Section 60.050-C), subject to conceptual plan 12.8 and 12.10 showing the location of the sign and conceptual plan 12.11 for the dimensions of the proposed sign. 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:

SW SE NE SEC 33 20 13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

Items to Consider and/or Take Action On:

Draft General Policies and Rules of Procedure BOA

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the General Policies and Rules of Procedure for the Board of Adjustment as submitted in today’s agenda packet.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Mr. Andrew Shank came forward and stated that he is unavoidably detained in arbitration in Florida on June 14th and he would like to take a moment to thank Mr. Frazier Henke for his service to this Board. Mr. Henke has been on this Board the entire time he (Mr. Shank) has practiced law and it can be seen in the Minutes and from his (Mr. Henke) work here that you have handled often emotional and controversial cases with grace befitting a citizen leader. The public and the City are better off from a zoning practitioner's stand point for all the time that has been given. Mr. Shank thanked Mr. Frazier for his time.

Mr. Henke stated that it has been a real pleasure to serve and he thanked Mr. Shank and everyone.

Mr. Van De Wiele presented Mr. Henke with a plaque for his 11 years service on the Board of Adjustment. Mr. Van De Wiele stated that he has appreciated everything that Mr. Henke has done and he knows the City certainly appreciates his service. Mr. Van De Wiele stated that the plaque is an understatement of how everyone appreciates the service and wish him well.

Ms. Snyder thanked Mr. Henke.

* * * * *

There being no further business, the meeting adjourned at 2:53 p.m.

Date approved: JUNE 14, 2016



Chair