

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1173  
Tuesday, November 8, 2016, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2<sup>nd</sup> Street

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Van De Wiele, Chair White, Vice Chair Flanagan, Secretary Back	Bond	Miller Moye Sparger Foster	Swiney, Legal Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, November 3, 2016, at 10:24 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

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**MINUTES**

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the October 25, 2016 Board of Adjustment meeting (No. 1172).

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Mr. Van De Wiele 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. Van De Wiele stated that on agenda item #4 Mr. White will be recusing from that matter, and on agenda item #13 Ms. Back will be recusing from that matter. Mr. Van De Wiele 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.

Mr. Van De Wiele announced there was one case withdrawn, Item #3, Case #22149, and if there was anyone present for that matter it has been withdrawn and they may leave if they wish to do so.

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## **UNFINISHED BUSINESS**

### **22148—Eller & Detrich – Lou Reynolds**

#### **Action Requested:**

Special Exception to permit wholesale distribution and indoor/outdoor storage of equipment and materials (Section 15.020); Variance from the screening requirements (Section 40.410 and Section 65.060); Variance from the required pedestrian circulation system (Section 55.130); Variance to reduce the required building setbacks from the R zoned lot (Section 15.030); Variance to permit outdoor storage within 300 feet of the abutting R District (Section 15.040-A).

**LOCATION: 401 South Memorial Drive East (CD 3)**

#### **Presentation:**

**Lou Reynolds**, Eller & Detrich, 2727 East 21<sup>st</sup> Street, Tulsa, OK; stated he represents Advance Work Zone Services and they are the business that supplies all the orange cones, orange barrels, the directional signs, etc. The subject property is eight acres in the four hundred block of South Memorial. The easterly two acres in the rectangular portion that runs north and south have been removed from PUD-820 and they have been rezoned from CH to CS to be more consistent with the Comprehensive Plan. There is a beverage distribution warehouse that is approximately 250,000 square feet being constructed to the east. The subject property was the long time location of Couch Construction Company and they have been a construction company in Tulsa for about 50 years. Immediately to the south of the subject property is a church and the rear of the church abuts the south boundary and there is a church on the west side. To the north is a lumber distribution facility and a roofing materials warehouse. The property has a fence that consists of a wrought iron fence for about 100 feet and the remaining portion is a six foot tall chain link with plastic slats. The street, South Memorial, is approximately 20 feet taller than the subject property. There are four buildings on the subject property and there are Variance requests for Building A and Building C because of the building setback violation. The landscape plan for the property has been administratively approved per the Zoning Code, and it is an alternative landscape plan. The buildings have been screened with a row of trees and the south end landscaping buffer will be kept which is in a natural vegetative state. There have been several requests for relief but it is because the old facility is being brought into compliance with the new Zoning Code. The hardship for the requests is that the property has been used

as a construction company for approximately 50 years and it will be used for a similar purpose though a less intensely than Couch Construction. There will be no significant changes in the property. The existing buildings on the subject property are positioned in such a way that it is not practical to have a pedestrian circulation system between them.

Mr. Van De Wiele asked Mr. Reynolds if 4<sup>th</sup> Street went all the way through. Mr. Reynolds stated that it does not go all the way through but there is a right-of-way.

Mr. Van De Wiele asked Mr. Reynolds why he only needed relief for Building C, if Buildings C, D, and E are all together. Mr. Reynolds stated it is because Building C is 21.4 feet tall and it requires a 24 foot setback, and it is positioned 22 feet from the property line. All three buildings are in a straight row but it is the height that triggers the request.

Mr. Van De Wiele asked Mr. Reynolds where the equipment would be stored. Mr. Reynolds stated that most of the equipment will be stored toward the north and west of the subject property. Mr. Van De Wiele asked if that would be trucks or barrels or cones. Mr. Reynolds stated that it will be trucks, barrels, cones, directional signs, information signs and flasher signs.

Mr. Van De Wiele asked staff if the Variance for the pedestrian circulation system negated the requirement for the sidewalk on Memorial. Mr. Reynolds stated there is an existing sidewalk on Memorial. Ms. Miller stated that it would not. Ms. Miller stated that industrial uses do not need to meet the pedestrian circulation requirement and this would be an industrial use.

Mr. White asked Mr. Reynolds if there were any new buildings planned for the subject property. Mr. Reynolds stated there are not. Mr. White asked Mr. Reynolds what is the date of the newest building. Mr. Reynolds stated that the newest building is on the south side and was built in about 1995.

**Interested Parties:**

There were interested parties present but no one wanted to speak.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Bond absent) to **APPROVE** the request for a Special Exception to permit wholesale distribution and indoor/outdoor storage of equipment and materials (Section 15.020); Variance from the screening requirements (Section 40.410 and Section 65.060); Variance from the required pedestrian circulation system (Section 55.130); Variance to reduce the required building setbacks from the R zoned lot (Section 15.030); Variance to permit outdoor storage within 300 feet of the abutting R District (Section 15.040-A), subject to “as built”. The applicant is to maintain the existing

fence as constructed. There is to be no storage of equipment or vehicles west of Building H as shown on pages 2.11 and 2.12. The Board finds that 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:

**TRACT 1:**

**A TRACT OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (SW/4 NW/4) OF SECTION ONE (1), TOWNSHIP NINETEEN (19) NORTH, RANGE THIRTEEN (13) EAST OF THE INDIAN BASE AND MERIDIAN IN TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**BEGINNING AT A POINT 210 FEET NORTH AND 50 FEET EAST OF THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH 276 FEET; THENCE EAST 577.40 FEET; THENCE SOUTH 276 FEET; THENCE WEST 577.40 FEET TO THE POINT OF BEGINNING.**

**TRACT 2:**

**A TRACT OF LAND THAT IS PART OF OIL CAPITAL HEIGHTS; A SUBDIVISION IN THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA ACCORDING TO THE RECORDED PLAT THEREOF; SITUATED IN THE NORTHWEST QUARTER (NW/4) OF SECTION ONE (1), TOWNSHIP NINETEEN (19) NORTH, RANGE THIRTEEN (13) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY,**

STATE OF OKLAHOMA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID OIL CAPITAL HEIGHTS; THENCE NORTH 01°21'22" WEST ALONG THE WESTERLY LINE OF OIL CAPITAL HEIGHTS FOR 456.13 FEET TO THE MOST WESTERLY NORTHWEST CORNER OF SAID OIL CAPITAL HEIGHTS; THENCE NORTH 88°35'43" EAST ALONG SAID NORTHERLY LINE FOR 190.93 FEET; THENCE SOUTH 01°21'22" EAST PARALLEL WITH SAID WESTERLY LINE FOR 456.43 FEET TO A POINT ON THE SOUTHERLY LINE OF OIL CAPITAL HEIGHTS; THENCE SOUTH 88°41'11" WEST ALONG SAID SOUTHERLY LINE 190.93 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINING 87,119.98 SQUARE FEET OR 2.000 ACRES, MORE OR LESS, City of Tulsa, Tulsa County, State of Oklahoma

**22151—KKT Architects – Nicole Watts**

**Action Requested:**

Special Exception to permit wholesale distribution and storage of equipment and materials (Section 15.020); Variance of parking from 170 to 155 spaces (Section 55.020). **LOCATION:** 5202 South Harvard Avenue East **(CD 9)**

**Mr. White abstains at 1:22 P.M.**

**Presentation:**

**Nicole Watts**, KKT Architects, 2200 South Utica Place, Tulsa, OK; stated she represents Interior Logistics and they are an interior designing firm. The plan is to save the old Mardel site, save the existing parking and add a new office building in the front. The Mardel building will be used for warehousing. Interior Logistics deals with furniture, art and everything for the interior of a building so their plan is to have their office in the front and use the existing building for warehousing goods. The site is unique. There is a 50 foot private road easement on the south side of the subject property which services the residential development to the west, and there is a cell phone tower on the north side.

Mr. Van De Wiele asked Ms. Watts what type of traffic would be utilizing the parking area. Ms. Watts stated that it will be office traffic. The client does not have a retail component so there will be no sales.

**Interested Parties:**

There were interested parties present but no one wanted to speak.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 3-0-1 (Back, Flanagan, Van De Wiele “aye”; no “nays”; White “abstaining”; Bond absent) to **APPROVE** the request for a Special Exception to permit wholesale distribution and storage of equipment and materials (Section 15.020); Variance of parking from 170 to 155 spaces (Section 55.020), subject to conceptual plan 4.10. The Board finds the hardship to be the 50 foot right-of-way on the south side of the property and the cell phone tower on the north side of the property causing hardships in meeting the required parking area for a wholesale distribution use. The Board has found this is to be office use with a warehouse and the applicant will be able to meet their parking needs. The Board finds that 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:

**PRT BLK 1 BEG SECR TH W400 N440 E185 S152 E215 S288 POB, HARVARD PARK SOUTH AMD, City of Tulsa, Tulsa County, State of Oklahoma**

**Mr. White re-enters the meeting at 1:30 P.M.**

## **22154-Osage—Ronald Wise**

### **Action Requested:**

Variance of the required parking for a restaurant from 16 spaces to 13 spaces in the CS District (Section 55.020). **LOCATION:** 505 West Newton Street North (CD 1)

### **Presentation:**

**Ronald Wise**, 9824 South 92<sup>nd</sup> East Avenue, Tulsa, OK; stated he purchased an existing property that had a restaurant about four years ago. He would like to open a new restaurant in the existing building. Most of the restaurant traffic will be walking traffic because the restaurant is more of a call-in and pick up type business.

Mr. Van De Wiele asked staff what the bicycle parking requirements are per the Zoning Code. Mr. Foster stated that the Code requires one vehicle space for every ten long term bicycle parking spaces.

### **Interested Parties:**

There were no interested parties present.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Bond absent) to **APPROVE** the request for a Variance of the required parking for a restaurant from 16 spaces to 13 spaces in the CS District (Section 55.020), per plan 5.8. This building has been in existence for quite some time and the existing parking has been sufficient over the years as it was a restaurant previously. The Board has found that the reduction from 16 spaces to 13 spaces will not present a problem to the neighborhood, particularly since the clientele will come from within the immediate area. 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 in the SE/4 of Section 27, Township 20 North, Range 12 East, I.M., Osage County, Oklahoma more particularly described as follows: Beginning at the Southeast Corner of the SE/4 of Section 27; thence North 80 feet; thence West 165 feet; thence South 80 feet; thence East 165 feet to the POB, City of Tulsa, Tulsa County, State of Oklahoma**

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### **NEW APPLICATIONS**

#### **22153—Heath E. Hardcastle**

##### **Action Requested:**

Modification to a previously approved site plan to permit expansion of an existing storage facility approved in BOA-17970 (Section 15.020). **LOCATION:** 10211 South Delaware Avenue East **(CD 2)**

Ms. Miller stated the site is now in the River Design Overlay. The River Design Overlay took effect on October 26, 2016. The overlay does not show up on the agenda packet map because the final Ordinance has not been received to be able to update the map. Prior to the effective date of the River Design Overlay the applicant submitted for a building permit but it was held due to a moratorium that was in place for certain uses that were prohibited in the River Design Overlay and self storage was one of the uses. There was a process for appealing the moratorium and the applicant submitted an application of appeal, went to the Planning Commission and the City Council and he was approved. Through the process the applicant submitted the site plan that is shown on page 6.16 in the agenda packet as well as the rendering of the building that was submitted to the Board today. These are two submittals that are important in the approval of the appeal and staff worked through the process. The Planning Commission conditions the approvals on these two items. For one, this site is facing the river and they wanted to make sure the building had a brick façade and some building articulation, such as the basket weave brick detail. If the Board is inclined to approve today's application Ms. Miller would ask the Board include the site plan on page 6.16 and the rendering submitted today. This site was included in a much larger area that received approval of a Special Exception for the use in 1998 so this application today the Board would be approving a modification of the site plan, because



the original site plan did not show anything on the portion of the property being discussed today.

**Presentation:**

**Heath Hardcastle**, 15 West 6<sup>th</sup> Street, Suite 2600, Tulsa, OK; stated that in 1998 the developer acquired the corner of 101<sup>st</sup> and Delaware, and sought a Special Exception at the time to allow for the construction of a self storage facility. The developer has operated the facility since that time and has subsequently developed the retail center and has a retail center under construction directly to the north of the subject property. As a part of the development to the north of the subject property an overflow parking area is also under construction between Delaware and the subject property leaving the subject tract which has nothing on it. The developer is proposing to add two additional self-serve storage buildings as part of an expansion to the existing storage facility.

Mr. Van De Wiele asked Mr. Hardcastle if the gate depicted on page 6.16 was for customers or storage clients. Mr. Hardcastle stated the gate is there for emergencies and it is required by the Fire Department.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Bond absent) to **APPROVE** the request for a **Modification** to a previously approved site plan to permit expansion of an existing storage facility approved in BOA-17970 (Section 15.020), subject to the conceptual plan 6.16 and the plan submitted today, November 8, 2016. The west facing building façade is to be brick and the west building façade will be in compliance with the basket weave brick detail submitted today. The Board has considered any condition it deems necessary and reasonably related to the request to ensure the proposed modifications are compatible with and non-injurious to the surrounding area and meets the previously granted Board relief or meets the zoning requirements, per code; for the following property:

**A TRACT OF LAND THAT IS PART OF LOT ONE (1) BLOCK ONE (1), RETAIL CENTER II, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1, BLOCK 1; THENCE SOUTH 00°09’51” EAST ALONG THE EAST LINE OF LOT 1 A DISTANCE OF 235.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00°9’51” EAST 125.00 FEET TO THE SOUTH LINE OF LOT 1; THENCE SOUTH 89°42’15” WEST ALONG**

**SAID SOUTH LINE 225.00 FEET TO THE WEST LINE OF LOT 1; THENCE NORTH 00°09'51" WEST ALONG SAID WEST LINE 125.00 FEET; THENCE NORTH 89°42'15" EAST A DISTANCE OF 225.00 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS 0.646 ACRES, City of Tulsa, Tulsa County, State of Oklahoma**

**22155—Charles Sanders Homes, Inc.**

**Action Requested:**

Special Exception to increase the maximum driveway width within the right-of-way and on the lot from 20 feet to 30 feet in an RS-4 District (Section 55.090-F.3).

**LOCATION:** 18521 East 44<sup>th</sup> Street South **(CD 6)**

**Presentation:**

**Charles Sanders**, Charles Sanders Homes, Inc., 107 South Ash, Broken Arrow, OK; no formal presentation was made by the applicant but he was available for any questions.

Mr. Van De Wiele asked Mr. Sanders if the other driveways in the neighborhood were 20 or 30 feet. Mr. Sanders stated that he counted the houses on the street and there are 19 and only one house had a 20 foot driveway while all the others had 30 foot driveways.

Mr. Sanders stated that he picked up his building permit from the City on March 28, 2016 and built the house. In the middle of September the City Inspector said the regulations had been changed in January and they were aware of it but approved the plan that had been turned in. Mr. Sanders he built the house and the driveway was poured when he was informed the Code had been changed.

Mr. White stated this is a problem the Board has encountered before the Code change in January. Other properties in the area, which are very close to Broken Arrow city limits, had over width by Tulsa standards that were allowed by Broken Arrow. He does not know how many applications the Board has heard for basically the very same thing. This is the first application that has come before the Board as a "gotcha" situation because of the Zoning Code change. At this point, since the Board will probably have more, the Board needs to come up with a procedure where the applicant will have similar problems.

Ms. Miller stated driveways are being treated differently in the new Code, the driveway is based on the width rather than lot coverage which use to require a Variance which requires a hardship, a higher test. In order to offset that, the City does not want anyone to pave half or more of the front yard, so a wider driveway is now requested by a Special Exception. Code changes are being worked on to clarify that process.

Ms. Back asked staff if she understood correctly that Mr. Sanders received his permit in March and the City missed the new Code change. Ms. Miller stated she was not sure,

but the new Code change took effect on January 1, 2016. The permit center had more flexibility on how they reviewed an application.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Bond absent) to **APPROVE** the request for a Special Exception to increase the maximum driveway width within the right-of-way and on the lot from 20 feet to 30 feet in an RS-4 District (Section 55.090-F.3), as constructed as shown per 7.8. The Board finds that 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 17 BLK 9, CYPRESS CREEK, City of Tulsa, Tulsa County, State of Oklahoma**

**22156—Perry Dunham**

**Action Requested:**

Special Exception to allow a non-conforming 2-story detached garage to be reconstructed (Section 80.030); Variance to increase the footprint of a non-conforming structure; Variance to allow an accessory structure to exceed 10 feet at the top of the top plate; Variance to allow a building to cover more than 25% of the rear yard setback area (Section 90.090). **LOCATION:** 2619 South Boston Place East **(CD 4)**

**Presentation:**

**Perry Dunham**, 2619 South Boston Place, Tulsa, OK; stated he is the owner of the subject property. He would like to rebuild the existing garage that had been built in 1930 and it is in poor condition. He would like to extend the garage to facilitate a modern vehicle because the existing garage is not deep enough. The stairs originally were set behind the structure on the outside on the utility easement and he wants to bring the stairs to the interior of the garage.

Mr. Van De Wiele asked Mr. Dunham if he was expanding the garage toward the house. Mr. Dunham answered affirmatively.

Mr. Van De Wiele asked Mr. Dunham if he had visited with his neighbors to see if they had any issues. Mr. Dunham stated that he had visited with everyone on the block and their general opinion is that the new garage will be a significant improvement to the neighborhood.

Mr. Dunham stated that his rear yard backs up to the trail and he has constructed a privacy fence to separate his lawn from the trail.

Mr. Van De Wiele asked Mr. Dunham if he had any plans of renting out the non-parking portion of the garage. Mr. Dunham stated that he had no such plans.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Bond absent) to **APPROVE** the request for a Special Exception to allow a non-conforming 2-story detached garage to be reconstructed (Section 80.030); Variance to increase the footprint of a non-conforming structure; Variance to allow an accessory structure to exceed 10 feet at the top of the top plate; Variance to allow a building to cover more than 25% of the rear yard setback area (Section 90.090), subject to conceptual plan 8.11 and 8.12. The structure is quite old and needs to be rebuilt. The outside stairs are to be moved to the inside of the new garage and the encroachment into the utility easement will be eliminated by doing so. The other relief is to take care of the slight expansion in size to accommodate modern vehicles. The apartment shown on 8.11 and 8.12 will be for the use of the owner only and not be used as a rental property. The Board finds that 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:

**LT 4 BLK 5, RIVERSIDE VIEW, City of Tulsa, Tulsa County, State of Oklahoma**

**22157—Michael D'Eath**

**Action Requested:**

Variance to reduce the required side-yard setback to permit expansion of the existing garage (Section 5.030). **LOCATION:** 13515 East 38<sup>th</sup> Place South (CD 6)

**Presentation:**

**Michael D'Eath**, 13515 East 38<sup>th</sup> Place, Tulsa, OK; stated he would like to add an area that is large enough to house a vehicle and build a workshop. The nearest building to the property line is about 14 feet.

Mr. Van De Wiele asked Mr. D'Eath he had visited with the neighbor to the west. Mr. D'Eath stated that he had and they had no issue with the request.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to reduce the required side-yard setback to permit expansion of the existing garage (Section 5.030), subject to conceptual plan 9.8. The hardship is the odd shape of the lot and that the applicant meets the five foot setback farther back because the lot line is diagonal to the position of the house. The building materials for the expansion are to be similar to the house to compliment the aesthetic appeal from the street. 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 5 BLK 5, PARK PLAZA EAST IV, City of Tulsa, Tulsa County, State of Oklahoma**

**22158—John Moody**

**Action Requested:**

Variance to allow a projecting sign to exceed the maximum allowable height to permit a sign 60 feet above grade with a 31 foot setback from the center line of West 4<sup>th</sup> Street South and South Boulder Avenue West (Section 60.080-D).

**LOCATION: 406 South Boulder Avenue West (CD 4)**

**Presentation:**

The applicant was not present. Mr. Van De Wiele moved the case to the end of the agenda.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

No Board action required at this time.

**22159—Nick Puma**

**Action Requested:**

Special Exception to increase the maximum driveway width from 30 feet to 75 feet on the lot in the RS-1 District (Section 55.090-F3). **LOCATION: 6033 East 118<sup>th</sup> Street South (CD 8)**

**Presentation:**

The applicant was not present. Mr. Van De Wiele moved the case to the end of the agenda.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

No Board action required at this time.

**22161—John Butler**

**Action Requested:**

Verification of the spacing requirement for liquor stores of 300 feet from plasma centers, day labor hiring centers, bail bonds offices, pawn shops, and other liquor stores (Section 40.300-A). **LOCATION:** 6514 East 101<sup>st</sup> Street South, Suites A1, B, & C) **(CD 8)**

**Presentation:**

**John Butler**, 8917 South Sandusky Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked if this was an expansion of the liquor store that had been there. Mr. Butler stated that liquor store has been closed for quite awhile and his application is for a new store, and the stores are not related.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Bond absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing for the proposed liquor store 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. The acceptance of the spacing verification is limited to 6514 East 101<sup>st</sup> Street South, Suites A1, B and C only as shown on 12.8; for the following property:

**LT 1 BLK 1, VILLAGE SOUTH, City of Tulsa, Tulsa County, State of Oklahoma**

**22158—John Moody**

**Action Requested:**

Variance to allow a projecting sign to exceed the maximum allowable height to permit a sign 60 feet above grade with a 31 foot setback from the center line of West 4<sup>th</sup> Street South and South Boulder Avenue West (Section 60.080-D).

**LOCATION: 406 South Boulder Avenue West (CD 4)**

**Presentation:**

The applicant was not present. Mr. Van De Wiele moved the case to the end of the agenda.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

No Board action required at this time.

**22159—Nick Puma**

**Action Requested:**

Special Exception to increase the maximum driveway width from 30 feet to 75 feet on the lot in the RS-1 District (Section 55.090-F3). **LOCATION: 6033 East 118<sup>th</sup> Street South (CD 8)**

**Presentation:**

The applicant was not present. Mr. Van De Wiele stated there is an interested party present and the Board will hear from him.

**Interested Parties:**

**Kirk Davis**, 11732 South Sheridan Road, Tulsa, OK; stated he lives on four acres west of the subject property and has been there 30 years. The problem is the house covers about 80% of an acre of land and the drainage is a problem. There has been drainage problems for years, since the development has been built and the PUD has not been the neighbors friend. There is a 100 year storm drain in the area but it is not in compliance with some of the gutters and the homes in the area because the gutters do not empty into the storm drain. There is an immense amount of water in the area and he is opposed to this request. When it rains the flow runs between his house and Mr. Antry's, another neighbor, like a river.



Mr. Van De Wiele asked Mr. Davis in what direction the water flowed in that area. Mr. Davis stated the water flows southward. Mr. Davis stated that when it rains there is a quarter section of water that flows down the creek from a retention pond at 116<sup>th</sup> Street. He not only has to fight the creek on a daily basis and now there will be water coming from the other side too. Mr. Davis thinks Stormwater Management should attend the meeting before the Board makes a decision to approve the request.

Ms. Miller stated that it is important to note, especially for the neighbor, the change regarding driveway width is actually going to City Council next month and this will impact the situation. Ms. Moyer looked at the PUD and she wrote in the staff report that this request is allowed by the PUD. The Code change would defer to the approval in the PUD so in a month or so this request will be allowed because the PUD allows it versus imposing another set of standards.

Mr. Van De Wiele stated that Stormwater Management should address the stormwater issue during the permitting process. Ms. Miller confirmed that.

Mr. Davis stated that Stormwater Management in the PUD mandated that all gutter drains were to flow into the 100 year storm drain and that is not happening. Mr. Van De Wiele stated that may something that Mr. Davis should contact Code Enforcement or the Mayor's office.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for a Special Exception to increase the maximum driveway width from 30 feet to 75 feet on the lot in the RS-1 District (Section 55.090-F3) to the Board of Adjustment meeting on December 13, 2016; for the following property:

**LT 12 and 13, BLK 2, ESTATES OF RIVER OAKS AMD, THE RSB ESTATES OF RIVER OAKS, City of Tulsa, Tulsa County, State of Oklahoma**

**22162—Eller & Detrich – Lou Reynolds**

**Action Requested:**

Special Exception to allow a government service and juvenile detention/correctional facility in the IM District (Section 15.020); Special Exception to permit a juvenile detention/correctional facility to be located within 2,640 feet of a homeless center and other detention/correctional facilities (Section 40.130-B); Variance to reduce the required building setback to 0 feet from North Elwood Avenue West and West Archer Street North (Section 15.030). **LOCATION:** 10 North Elwood Avenue West **(CD 4)**

**Ms. Back recused and left the meeting at 2:28 P.M.**

**Presentation:**

**Lou Reynolds**, Eller & Detrich, 2727 East 21<sup>st</sup> Street, Tulsa, OK; stated he represents the Tulsa County Board of County Commissioners. This project is called the Family and Juvenile Justice System. It is a court house and it will be located on approximately six and a half acres in an IM zoned district which is unusual downtown. Located south of the subject project is the BOK Center and to the north is the County Jail. Also located in the area are the old Avalon Corrections Corporation of America Pre-release Center, the Salvation Army, and the Day Center for the homeless. The project will be located between the railroad track and Archer Street with Elwood on the east and Guthrie Avenue on the west. This property has about 250,000 square feet of improvements as constructed starting in the 1930s. Mr. Reynolds had several pictures of the subject property placed on the overhead projector. The proposed building will be approximately 165,000 square feet and 110,000 square feet of the building will be court house. The District Attorney, the Public Defender and Court Appointed Special Advocates will have offices in the building. The use will be an extension of the County Court house. There is approximately 50,000 square feet will be the Juvenile Detention Center. Mr. Reynolds stated that he believes this project to be more of a court house than a detention center but that can be sorted out in the permitting process thus the reason for the Special Exception requests. Mr. Reynolds stated that he believes this is an office building and a betterment for the neighborhood. The building will be four stories tall with an entrance on Archer as the primary entrance. The parking complies with the Code and the parking area will have a wrought iron type fence around it. There will be large perimeter sidewalks with trees around it. The building will have a campus like setting. With respect to the detention center there will be three pods of 21 beds a piece. Tulsa Public Schools will be in the detention facility five days a week, six hours a day. This is not a correction institution. It is not incarceration.

Mr. Flanagan asked Mr. Reynolds if there would be barbed wire around the area. Mr. Reynolds stated there would not be any razor wire or anything like it, and there will be no symbols of incarceration. Mr. Reynolds stated there will be a decorative ten foot metal fence that cannot be seen through which will match the architecture of the building.

Mr. Reynolds stated that people misunderstand what the juvenile court system is about. It is not about punishment. It is not about sending any one to prison. It is not incarceration. It is solely in existence for protection while the court decides whether to send a child back to family or to place the child in foster care. This project needs to be located near public transportation and public transportation is very available in this area. The project will not increase any nonconformity in the area and there is no conflict of use with the adjacent properties. This project will improve the neighborhood. Mr. Reynolds stated that with respect to the Variance request the applicant would like to

locate the building as close as possible to Elwood and Archer. The hardship for that request is that the project is in the CBD zoning and inside the inner dispersal loop, and the Comprehensive Plan wants the building pushed to the property line where possible. The CBD zoning allows for this to be done also. The project is not an industrial use so the clearance from the building to the street is not needed.

**Interested Parties:**

There were interested parties present but no one wanted to speak.

**Comments and Questions:**

Mr. Van De Wiele stated that he believes this to be a good project because the juvenile court system is woefully under sized and working out of facilities that are shamefully outdated and undersized. This project is a good thing and it fits into the neighborhood. There are several social services in the area.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 3-0-1 (Flanagan, Van De Wiele, White “aye”; no “nays”; Back “abstaining”; Bond absent) to **APPROVE** the request for a Special Exception to allow a government service and juvenile detention/correctional facility in the IM District (Section 15.020); Special Exception to permit a juvenile detention/correctional facility to be located within 2,640 feet of a homeless center and other detention/correctional facilities (Section 40.130-B); Variance to reduce the required building setback to 0 feet from North Elwood Avenue West and West Archer Street North (Section 15.030), subject to conceptual plan submitted today tagged 13.35. The Board has found that this is a facility that has long been needed and long past due. The Board finds that 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 hardship for the Variance is the fact that the zero setback will be workable in so far as there is no vehicular industrial traffic coming from the buildings out onto the street, therefore, the buildings can be fronting on the street itself. 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:

**Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9, Block 64, ORIGINAL TOWN, NOW CITY OF TULSA, Tulsa County, Oklahoma, according to the Official Plat thereof.**

**AND**

**The Twenty (20) foot alley running through Block 64, ORIGINAL TOWN, NOW CITY OF TULSA, Tulsa County, Oklahoma, according to the Official Plat thereof.**

**AND**

**Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11, Block 65, ORIGINAL TOWN, NOW CITY OF TULSA, Tulsa County, Oklahoma, according to the Official Plat thereof, LESS AND EXCEPT a part of said Lot 11, more particularly described as:**

**Beginning at a point which is the Northwest corner of said Lot 11; thence South along the West boundary line of said Lot 11 a distance of Sixty-five (65) feet; thence Northeasterly to a point on the North line of said Lot 11, which said point is One Hundred Twelve (112) feet from the Point of Beginning; thence West a distance of One Hundred Twelve (112) feet to the Point of Beginning.**

**AND**

**The Twenty (20) foot closed alley running through Block 65, ORIGINAL TOWN, NOW CITY OF TULSA, Tulsa County, Oklahoma, according to the Official Plat thereof, City of Tulsa, Tulsa County, State of Oklahoma**

**Ms. Back re-entered the meeting at 2:42 P.M.**

**22158—John Moody**

**Action Requested:**

Variance to allow a projecting sign to exceed the maximum allowable height to permit a sign 60 feet above grade with a 31 foot setback from the center line of West 4<sup>th</sup> Street South and South Boulder Avenue West (Section 60.080-D).

**LOCATION: 406 South Boulder Avenue West (CD 4)**

**Presentation:**

The applicant was not present. Mr. Van De Wiele moved the case to the end of the agenda.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Bond absent) to **CONTINUE** the request for a **Variance** to allow a projecting sign to exceed the maximum allowable height to permit a sign 60 feet above grade with a 31 foot setback from the center line of West 4<sup>th</sup> Street South and South Boulder Avenue West (Section 60.080-D) to the Board of Adjustment meeting on December 13, 2016; for the following property:

**E100 LT 1 N1/2 LT 2 BLK 134, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma**

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**OTHER BUSINESS**

Ms. Miller stated that she would like to discuss with the Board about the availability of the Board having a work session. Ms. Miller stated that Mr. Van De Wiele and she have discussed about holding the work session on Tuesday, December 13<sup>th</sup> at 11:30 A.M. at the INCOG offices with lunch being served. Ms. Miller stated there is a large amount of Code revisions being worked on and things such as procedures and meetings will be discussed. There are the new amendments, such as, the parking lot measurements for car lots which Mr. White has discussed with her, so these types of items will be highlighted.

Mr. Van De Wiele asked Ms. Miller about the Special Meeting on November 17<sup>th</sup>. Mr. Van De Wiele asked staff or Legal if the two parties that find it necessary to recuse need to attend this meeting. Mr. Swiney stated that there has been a discussion of having all five members present and the three abstentions would remain in attendance. Ms. Miller stated that if Mr. Van De Wiele stays in abstention then Ms. Back and Mr. Flanagan will be in the back room for as long as the meeting in session. Mr. Swiney stated that in case he would guess that Ms. Back and Mr. Flanagan would not need to attend. Mr. Swiney stated that the meeting will have three members in attendance to have quorum, then the vote with a motion and a second will have one abstention and two voting members so the vote will fail hypothetically. That will place jurisdiction in District Court.

Ms. Miller stated the agenda packet for the 17<sup>th</sup> will be placed in the mail tomorrow. Also, since the last meeting where the case was continued, the applicant has since filed an Appeal of the determination of the use. There will actually be two applications related to Iron Gate.

Mr. Van De Wiele asked Ms. Miller if the applicant was not appealing the general concept of is this use this type of category, but it is specific to this application on this particular parcel. Ms. Miller answered affirmatively and stated that it is not a general appeal.

Mr. Flanagan asked for confirmation that Ms. Back and he will not be in attendance on November 17<sup>th</sup> but they are both to attend the work session and Board of Adjustment meeting on December 13<sup>th</sup>. Mr. Swiney answered affirmatively.

Ms. Back asked for clarification when referencing "not to be used as a rental". She would like to know which way the Board is going specify. Mr. Van De Wiele stated the Board occasionally states that an area is "not to be used as a rental" while other times the Board does not make mention of the rental possibilities. Mr. Swiney stated the Board does not need to necessarily mention it as it is prohibited already by the Code. Mr. Van De Wiele stated that typically the Board will ask about the rental possibilities and it makes sense to clarify it. Ms. Back agreed that in asking whether a structure will be used as a rental is a good idea because that places the answer on the record. Mr. Flanagan agreed with Ms. Back. Mr. Swiney stated that step is being thorough.

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**NEW BUSINESS**

None.

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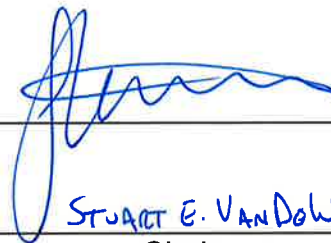
**BOARD MEMBER COMMENTS**

None.

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There being no further business, the meeting adjourned at 2:51 p.m.

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



STUART E. VANDOWIERE

Chair

12-13-2016