

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1174
Tuesday, December 13, 2016, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Van De Wiele, Chair White, Vice Chair Flanagan, Secretary Back Bond		Miller Moye Sparger Ulmer	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on Thursday, December 8, 2016, at 10:43 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Back, Bond, Flanagan, Van De Wiele White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the November 8, 2016 Board of Adjustment meeting (No. 1173).

On **MOTION** of **WHITE**, the Board voted 3-0-2 (Bond, Van De Wiele, White "aye"; no "nays"; Back, Flanagan "abstaining"; none absent) to **APPROVE** the **Minutes** of the November 17, 2016 Board of Adjustment meeting (Special Meeting).

NEW APPLICATIONS

22166—Tracy Nonweiler

Action Requested:

Variance of the minimum open space per unit requirement from 7,000 square feet to 6,078 square feet; Variance of the rear setback from 25 feet to 6 feet (Section 5.030). **LOCATION:** 2622 East 33rd Place South **(CD 9)**

Presentation:

The applicant requests a continuation to January 10, 2017 because she is considering a withdrawal of the case and needs additional time to work with the architect.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Back, Bond, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **CONTINUE** the request for a Variance of the minimum open space per unit requirement from 7,000 square feet to 6,078 square feet; Variance of the rear setback from 25 feet to 6 feet (Section 5.030) to the January 10, 2017 Board of Adjustment meeting; for the following property:

LT 6, BLK 4, TIMBERLAND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22167—Len Wade

Action Requested:

Special Exception to permit a duplex in the CH District (Section 15.020).
LOCATION: 631 South Peoria Avenue East **(CD 4)**

Presentation:

Staff requests a continuation to January 10, 2017 to allow the City additional time to review the request.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Back, Bond, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **CONTINUE** the request for a **Special Exception** to permit a duplex in the CH District (Section 15.020) to the January 10, 2017 Board of Adjustment meeting; for the following property:

LT 12 BLK 1, EAST LYNN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

22170—Jennifer Kudirka

Action Requested:

Variance of the required street frontage in the IM District from 50 feet to 0 feet to permit a lot-split (Section 15.030). **LOCATION:** 48 North Peoria Avenue East (CD 1)

Presentation:

The application was withdrawn and the applicant is requesting a full refund.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Back, Bond, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a full refund of \$623.00; for the following property:

BEG 10N SECR GOV LT 1 TH N70 W277 N82.7 TO PT ON SL RR R/W SW ALG R/W TO PT ON SL LT 1 TH E 397 FT 9 & 1/2 INS N10 E245 FT 8 & 1/2 INS POB LESS BEG NWC LT 16 BLK 3 BERRY ADD TH N93.22 TO PT ON SL RR R/W TH SW ALG R/W 229.7 TO PT ON SL LT 1 E214.5 POB, BERRY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

UNFINISHED BUSINESS

22137—Khoury Engineering – Malek Khoury

Action Requested:

Special Exception to permit a self-storage facility in the CS District (Section 15.020). LOCATION: SE/c of West 71st Street South & South Jackson Avenue West (CD 2)

Presentation:

Malek Khoury, Khoury Engineering, 1435 East 41st Street, Tulsa, OK; stated the property to the south has just recently been rezoned to CS. The property has a flood plain on the east side which enters the property and exits at multiple locations making it very difficult to develop closer to 71st Street. Mr. Khoury believes this Use will allow the land owner to utilize the frontage on 71st Street with a two-story storage facility. The storage facility will have a full time staff that will maintain the property. The property will be fenced and gated. The project will be built in two phases. Phase one will be an “L” shape and phase two will come in the future, which could be next year or ten years from now. The preliminary plat has been approved by the Planning Commission.

Mr. Van De Wiele asked Mr. Khoury if the Planning Commission approved the plat for phase one only. Mr. Khoury stated the approval was for both phases because it is one single lot. Mr. Khoury stated a final plat has not been submitted because he wanted to wait to receive the decision for today’s request before doing so.

Mr. Van De Wiele asked Mr. Khoury if Jackson was a dead end street. Mr. Khoury answered affirmatively.

Mr. White asked Mr. Khoury if there were any plans on improving the condition of Jackson Street. Mr. Khoury answered affirmatively and stated that he has received a plan from the City of Tulsa which has a project in the works to improve Jackson Street. Mr. Khoury believes the City has already hired a contractor to begin the improvements.

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 5-0-0 (Back, Bond, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Special Exception to permit a self-storage facility in the CS District (Section 15.020), subject to conceptual plan 3.7 understanding that there are plans to improve the condition of South Jackson Avenue that will be fronting the subject property. 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:

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER (NW/4 NE/4) OF SECTION ELEVEN (11) OF TOWNSHIP EIGHTEEN (18) NORTH AND RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN (I.B.&M.), ACCORDING TO THE U.S. GOVERNMENT SURVEY, THEREOF, TULSA COUNTY, STATE OF OKLAHOMA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF THE NE/4 OF SEC. 11, T-18-N, R-12-E, I.B.&M.; THENCE S 89°09'10" W ALONG THE NORTH LINE OF SAID NE/4 A DISTANCE OF 1327.82 FEET TO THE NE CORNER OF THE NW/4 OF SAID NE/4; THENCE S 89°09'10" W ALONG THE NORTH LINE OF SAID NE/4 A DISTANCE OF 310.00 FEET; THENCE S 01°18'39" E A DISTANCE OF 75.00 FEET TO THE POINT OF BEGINNING BEING ON THE INTERSECTION OF THE PRESENT SOUTH RIGHT-OF-WAY OF WEST 71ST STREET SOUTH AND THE PRESENT EAST RIGHT-OF-WAY OF SOUTH JACKSON AVENUE; THENCE N 89°09'10" E A DISTANCE OF 50.00 FEET; THENCE S 01°18'39" E A DISTANCE OF 25.00 FEET; THENCE N 89°09'10" E ALONG SAID PRESENT SOUTH RIGHT-OF-WAY OF WEST 71ST STREET SOUTH A DISTANCE OF 50.00 FEET; THENCE S 01°18'39" E A DISTANCE OF 215.01 FEET TO SAID PRESENT SOUTH RIGHT-OF-WAY OF WEST 71ST STREET SOUTH; THENCE N 89°08'57" E A DISTANCE OF 210.00 FEET; THENCE S 01°18'39" E ALONG THE EAST LINE OF SAID NW/4 NE/4 A DISTANCE OF 477.00 FEET; THENCE S 89°08'57" W A DISTANCE OF 310.00 FEET TO THE EAST LINE OF SAID NW/4 NE/4; THENCE N 01°18'39" W ALONG SAID PRESENT EAST RIGHT-OF-WAY OF SOUTH JACKSON AVENUE A DISTANCE OF 717.02 FEET TO THE POINT OF BEGINNING, AND CONTAINING 3.917 ACRES, MORE OR LESS, 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 East 4th Street South and South Boulder Avenue (Section 60.080-D). **LOCATION:** 406 South Boulder Avenue West **(CD 4)**

Presentation:

John Moody, 6004 South Marion Avenue, Tulsa, OK; stated this request is to permit a sign for an insurance company. The sign is to be located on the building located at the southwest corner of 4th Street and Boulder Avenue. The sign itself is very similar to the original sign that was on the building when it was the Fourth National Bank building, as shown on exhibit 4.13 in the agenda packet. Because the building was constructed many years ago it is impossible to comply with the setback to meet the height requirement. The height requirement is exceeded to be able to make the sign

aesthetically and architecturally compatible with the height of the building and the other signs in the area, plus it will be very similar to the original sign that was on the building. The building has been historically preserved on the outside. The various awnings on South Boulder make it more difficult to erect the sign lower because the awnings cause a visibility problem. The proposed location works better given the architectural features of the building. The sign is compatible with the signage that is in the Central Business District, and Mr. Moody presented photos. The sign will obstruct visibility for motorists and will not create any traffic problems. Mr. Moody believes the sign fits in with the character of the city while retaining the flavor of downtown. The Board has approved, as recently as last month, a Variance for a projecting sign at the corner of West 3rd Street and South Cheyenne, and in 2013 the Board approved a sign that exceeds 40 feet in height.

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 5-0-0 (Back, Bond, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** 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 East 4th Street South and South Boulder Avenue (Section 60.080-D), subject to conceptual plan 4.12. The hardship is the existing building was built in the Central Business District with no building setbacks making it impossible to meet the Code requirement for the height requirements. The Board finds that the following facts, favorable to the property owner, have been established:

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

g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

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

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 118th Street South **(CD 8)**

Presentation:

Nick Puma, 1506 East 35th Street, Tulsa, OK; stated that at the last meeting there were two parties that had concerns and since then he has spoke with them. Those two parties have written letters of support because their questions regarding stormwater run off have been answered. The proposed driveway cannot be tied together without ruining the courtyard area in the center that serves the upstairs apartment and the two garages.

Mr. Van De Wiele asked Mr. Puma if the apartment was going to be a rental. Mr. Puma stated that the apartment would not be a rental, it is for family use.

Mr. Van De Wiele asked staff when does a driveway stop being a driveway and start being a patio. Ms. Miller stated there was a lengthy discussion with the building permit office about the driveway and there is a difference in the Code between a driveway and a parking area.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** 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), subject to conceptual plan 5.6. 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 12 and 13, BLK 2, ESTATES OF RIVER OAKS AMD, THE RSB ESTATES OF RIVER OAKS, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

22164—Zachary Karo

Action Requested:

Special Exception to permit a fence height greater than 4 feet in the required street setback (front yard of the lot) (Section 45.080-A). **LOCATION:** 4925 East 105th Street South **(CD 8)**

Presentation:

Zachary Karo, 4925 East 105th Street, Tulsa, OK; stated he would like to have a fence greater than four feet tall because the street he resides on is an artery that feeds several neighborhoods. The fence would be wrought iron gate with brick pillars and it would be security for his children. The proposed fence will be similar to the fence across the street.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Back, Bond, Flanagan, Van De Wiele, White “aye”; no “nays”; 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 (front yard of the lot) (Section 45.080-A), subject to conceptual plan 6.13 and the construction as shown on 6.14. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

PRT LT 3 BEG SWC TH N189.53 E122.56 S189.17 W122.56 POB BLK 2, COUNTRY GENTLEMEN ESTATES, City of Tulsa, Tulsa County, State of Oklahoma

22165—Wilber Miranda

Action Requested:

Special Exception to permit a vehicle body and paint finishing shop in the CS District (Section 15.020). **LOCATION:** 2160 South Garnett Road East **(CD 6)**

Presentation:

Wilber Miranda, 2160 South Garnett Road, Tulsa, OK; stated this project has been ongoing for several years because he had left the state and when he returned he discovered that the person that had taken over the business for him had done nothing. Upon his return he was visited by the Fire Marshal and he thought his previously approved Special Exception was still in force. The business is still in the same place and still the same type of operation as before.

Mr. White stated that when the Board approved this previously there were issues with inoperable vehicles being stored outside, and there was an accumulation of materials and car parts in the parking lot. Have these things been cleaned up or will there still be a problem? Mr. Miranda stated the body parts are gone and the cars that are parked outside are brought inside at the end of the day. Mr. White asked Mr. Miranda if there were any inoperable vehicles parked outside. Mr. Miranda stated that currently there are two which are long projects because they are being restored. Mr. White asked if those vehicles were brought inside the building at night. Mr. Miranda stated that they can be brought inside.

Mr. Van De Wiele asked Mr. Miranda if the vehicles shown in the photo on 7.11 were behind the building. Mr. Miranda stated they are in front but he can bring the vehicles inside.

Ms. Back asked Mr. Miranda if the auto repair shop was still next door to him. Mr. Miranda stated that just recently the mechanic has moved out leaving a lot of cars on the lot, but he is in the process of moving them.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Special Exception to permit a vehicle body and paint finishing shop in the CS District (Section 15.020), subject to conceptual plans 7.12 and 7.13. The approval is subject to the following conditions: there are to be no vehicles or parts are to be stored outside during non-working hours. The hours of operation will be 7:00 A.M. to 7:00 P.M., Monday through Saturday. 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:

PRT LTS 1 & 2 & 4 BEG NEC LT 2 TH W150 S140 W10 S150 W APR 479.11 N APR 520.24 E APR 489.11 S APR 175 E APR 150 S55.24 POB BLK 1, TIFFANY PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Flanagan left the meeting at 2:05 P.M.

22168—Claude Neon Federal Signs – Ed Horkey

Action Requested:

Variance to increase the permitted sign display area to 1,092 square feet to permit two freestanding signs in the freeway corridor (Section 60.080-C). **LOCATION:** 5866 South 107th Avenue East **(CD 7)**

Presentation:

Ed Horkey, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, OK; stated he represents the company HitchIt which sells enclosed open trailers, service of the trailers and accessories. The business is a retail and service oriented business. The location of the business is north of 61st Street and Highway 169 and the main draw for the business is that it has tremendous exposure on Highway 169. There are a number of factors that affect this request. First, there are topographical difficulties to overcome on Highway 169 because the highway is 20 to 25 feet higher than the grade of the business. Prior to the current ownership of the subject property there was a billboard placed on the property and that billboard is 50 feet tall which equals 672 square feet. Per Code that billboard utilizes the allowable square footage for the subject property for a freeway corridor ground sign. Mr. Horkey is asking to be placed in a secondary category or classified for two ground signs on the subject property looking at the second ground sign having available two square feet per lineal foot of frontage. The majority of the time when there is a billboard on a property the billboard is owned by the property owner or owns the lease to the billboard. This is a different situation where a non-property owner that holds the lease on the billboard. He would like the property owner to have the ability to have the same square footage available that is available throughout the corridor for all the other property owners. Mr. Horkey believes the hardships for this request are the topographical issues and the unique situation with the billboard.

Mr. White stated that he has never heard of a situation like this in all the years he has been on the Board, and he asked Ms. Blank if there was any precedent the Board could use as a guideline. Ms. Blank stated the Zoning Code has a formula by choice and it is assumed that its purpose is to restrict the amount of signage, and the Code favors having one sign along the corridor.

Mr. Van De Wiele asked if a billboard is considered a ground sign. Mr. Horkey stated a billboard is classified in the same class as a ground sign and billboards are classified as off premise advertising. A ground sign placed by the property owner is on premise advertising. However, the accumulative square footage per Code is all combined. The Code does address additional ground signs and there is a property north of the subject property that has three ground sign permits but they are also within the square footage

availability. Mr. Horkey stated that he is only asking for the same advantages that the other property owners have.

Ms. Back stated a freeway corridor sign in the IL District can go up to 50 feet in height. Ms. Back asked Mr. Horkey if he was requesting 39 feet in height. Mr. Horkey answered affirmatively. He would ask if this request is approved it be based on the square footage leaving the 50 foot height in place because if the property decided to sell the 50 foot height may be an enticement for a new owner. The current property owner decided on the 39 foot height because once the sign is 40 feet or taller the sign requires full engineering studies and it is more expensive for a taller sign. It was also decided to stay at 39 feet in height so as not to interfere with the existing billboard.

Mr. Van De Wiele asked Mr. Horkey if the 39 foot height got him past the topographical issues. Mr. Horkey answered affirmatively. Mr. Van De Wiele asked Mr. Horkey if the sign would be seen sufficiently far enough south from Highway 169. Mr. Horkey answered affirmatively.

Mr. Van De Wiele asked Mr. Horkey if all the signs already existing on the building counted into ground sign calculations. Mr. Horkey stated the existing signs on the building are considered wall signage and they are separate from ground signage.

Ms. Miller stated the sign budget combines all the free standing signs whether it be off premise advertising.

Ms. Back stated there is a nonconforming banner sign on the property and she checked to see if there had been a permit issued for the sign and there is not. Ms. Back believes there are sight issues for the driveway with the banner placement and it needs to be addressed. Mr. White stated the banner is on the city right-of-way.

Interested Parties:

Todd Garcia, 5910 South 107th East Avenue, Tulsa, OK; stated his property is south of the subject property. The problem with the proposed sign is that it will be blocking the view of his sign which is right next to his building. When there is a sign placed between to existing sign it poses a problem for everyone.

Mr. Van De Wiele asked Mr. Garcia if his sign is taller than the subject building. Mr. Garcia answered affirmatively. Mr. Van De Wiele asked Mr. Garcia how tall his sign is. Mr. Garcia stated that he thinks it is the same height as the applicant's but he is not positive.

Mr. Van De Wiele asked Mr. Garcia if the existing billboard blocked the view of his sign. Mr. Garcia stated the existing billboard currently does not block his sign.

Pat Selcer, Lamar Outdoor Advertising, 7777 East 38th Street, Tulsa, OK; stated the property owner where Lamar has the sign notified him of this request. Mr. Selcer stated

that he has not problem with today's request as long as the proposed sign does not exceed 39 feet and the placement of the sign does not block his billboard.

Rebuttal:

Ed Horkey came forward and stated that he spoke with Mr. Selcer last week and discussed the proposed sign. The spacing that is normally laid out for signage is done to maintain viewing angles. With the current signs and the proposed sign placement the viewing angles will still be there, and in his opinion he does not think it will be an issue.

Comments and Questions:

Mr. Van De Wiele stated he has concerns regarding the hardship, whether it is self imposed either by the predecessor or the applicant. Mr. Van De Wiele stated that he would prefer to see a site plan showing where the proposed sign is intended to be placed.

Ms. Back she would also like to see sight distance angle on the site plan in relation to the billboard and the neighboring sign.

Mr. Bond left the meeting at 2:06 P.M.

Mr. Van De Wiele asked Mr. Horkey if that was something that he could put together for the Board. Mr. Horkey answered affirmatively. Mr. Horkey stated the LOD shows that the signage is 110 feet from the south property line and 50 feet from the west property line. Mr. Van De Wiele stated he would like to see that on a site plan showing the neighbor's sign and all the signs line up with one another.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Back, Van De Wiele, White "aye"; no "nays"; Bond "abstaining"; Flanagan absent) to **CONTINUE** the request for a Variance to increase the permitted sign display area to 1,092 square feet to permit two freestanding signs in the freeway corridor (Section 60.080-C) to the January 10, 2017 Board of Adjustment meeting; for the following property:

N320 LT 13 & E26.39 N320 LT 14 LESS BEG 320.93 N SECR LT 14 TH NW81.04 S76.58 E26.39 POB BLK 2, GOLDEN VALLEY, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele explained to the applicants and interested parties that Mr. Flanagan was feeling ill and has left the meeting leaving only four board members present. If an applicant or an interested party would like to postpone his or her hearing until the next meeting he or she could do so. 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 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. Bond re-entered the meeting at 2:08 P.M.

22169—David M. Frohling

Action Requested:

Modification of a previously approved Special Exception (BOA-2446) to expand a religious assembly use to permit expansion of an accessory parking area in the RS-3 District (Section 5.020). **LOCATION:** SW/c of East 36th Place South and South New Haven Avenue East **(CD 9)**

Presentation:

Chris Medrano, 3640 South New Haven, Tulsa, OK; stated this application is for the purpose of extending an existing parking lot for additional parking stalls. The addition is for approximately 40 parking spaces in the lot that originally had two duplexes on it. The church is attempting to provide a facility that is adequate for their members to worship on Sundays and Wednesday nights. The intended use of the parking lot is to grow to fit the size of the property and the existing interior square footage of the building. The church currently has a need for additional parking spaces for members that live in the area. Just as every religious facility has the church has its own style of worship. One of the keys to the cornerstone of the church is family and worship together in the same building. The existing building has adequate square footage for the members but there is not adequate parking to accommodate all the members. Currently the older children are being pushed out of the existing facility into a leased facility a few blocks away in order to adequately park at the facility. The additional parking will allow the church to bring the children back into the worship service and have them a part of the Sunday activities. The subject building in the 1950s was one of the first buildings for the church in northeast Oklahoma. One of the reasons the neighbors do not see the need is because the church is trying to provide space for growth, not just on the subject property but throughout all of northeast Oklahoma. From the subject building the church has continued to push people to facilities closer to their homes to include three congregations that meet in east Tulsa, four congregations that meet in Sapulpa, three congregations that meet in Owasso, one congregation in Pryor, two congregations in Claremore, and one congregation in Henryetta. The church does not desire or shown a pattern of creating a mega church and with all the facilities it brings the church to approximately 8,000 members in northeast Oklahoma that have originated from the subject property starting point. The church does not have a desire to overburden the particular area but the building does have the capabilities to house all of the family members other than the ones meeting there now. Traditionally, twice a year there is a congregation where all the congregations meet together. The church

defines the individual congregations as wards and those are normally between 300 and 600 members. Those are consolidated into larger geographical areas which are called stakes and there could be approximately 4,000 members in the stake. Of the 8,000 members in northeast Oklahoma there is not a single paid staff person that attend any of the facilities because they are all managed by volunteers. For the church to worship they need the right size facility, the right size congregation so there are enough people for the nursery class, cub scouts, boy scouts, and Sunday school teachers. Having the parking lot will afford the church the opportunity to bring those people together to worship as a family.

Mr. Van De Wiele asked Mr. Medrano if there will be a consolidation within at least Tulsa or the greater Tulsa area? Will there be church members from leased facilities brought into the subject church site? Mr. Medrano stated the young single adults who are part of this community are meeting in a leased facility but the church has not stressed the building or the parking lot. The church has not done so because, one, being a good neighbor if the church stresses the parking lot it is a problem. If there is no room for people to park they will drive away and go home. In order to retain membership the church has moved members to another facility temporarily. The size of the congregation is limited to how the church can park. The bi-annual conference used to be held at the subject church but because it has grown to over 500 attendees the church now broadcasts to the other facility. When the church had the opportunity to acquire a piece of property to extend the parking lot they saw it as an opportunity to bring members back into the building.

Mr. Van De Wiele asked Mr. Medrano to give the Board an estimated parishioner count of where the church is on a typical worship day and where they see themselves going, because there have been letters from neighbors that state they have never seen the parking lot full. Mr. Medrano stated the church has two congregations that are meeting in the subject building that are regular family congregations with the typical services. The Riverside ward has a membership of approximately 630 members with about 200 in solid attendance. The New Haven ward has approximately 673 members with about 220 in solid attendance; they meet at different times. The subject church has a membership of 152 with an average of 86 in attendance, and they are not a typical family congregation but have age appropriate classes.

Mr. Van De Wiele asked Mr. Medrano if the congregation of 152 or 86 is anticipated in blending into one or both of the other two wards. Mr. Medrano answered affirmatively and the church could move them tomorrow.

Stephen Schuller, 100 West 5th Street, Suite 1100, Tulsa, OK; stated he is serving as attorney for the Church of Jesus Christ Latter Day Saints. Mr. Schuller stated that he handed in a revised site plan today which shows more detail than what was previously provided particularly with the service water drainage. Today's site plan conforms to all the zoning code requirements for the proposed additional parking lot and it exceeds the City's minimum landscaping requirements. Mr. Schuller believes it is a site plan that is sensitive to the surrounding residential area. Under the current zoning code churches

are permitted in the residentially zoned districts as institutions of religious assembly and off street parking is a recognized accessory use. The church's use of its existing property was approved by the Board of Adjustment in 1953 and it was constructed shortly thereafter. Earlier this year the two subject additional lots were offered to the church and purchased. The church wants to only expand their existing parking by approximately 40 spaces to serve the two congregations that meet at the subject building. The two congregations meet at different times but they overlap so the proposed parking lot is much needed. The building size is fully sufficient for their purposes but the parking lot is not. The Special Exception is in harmony with the spirit and intent of the zoning code. The proposed parking lot meets all of the Zoning Code setback requirements, all the screening requirements, the outdoor lighting of the parking lot and the landscape exceeds the requirements. By design the church is required to comply with the City's stormwater runoff regulations to prevent water runoff onto the neighboring properties. There are open landscape spaces on the site that are designed by a Civil Engineer to catch the surface water runoff with onsite underground water storage. This Special Exception will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The plan improves parking flow within the parking area. Mr. Schuller presented photos of the housing across the street from the church to show their landscaping in relation to the proposed church parking lot expansion. The additional lot substantially reduces the prospects of the church parking on the street. The church is very determined to their cars off the street and to park on the lots they have and the proposed lot they want to expand into. Mr. Schuller stated there is hostility among the neighbors, and the Board has encouraged the church and the protestants to meet with each other to find common ground. The church held such a meeting Monday evening, November 14th and only two neighbors showed up. The other neighbors, it was found out, met separately and resolved not to attend the church's meeting. There is a letter written by an attorney on behalf of one of the neighbors that suggests a compromise, which is really not a compromise at all, that calls for more than 30% reduction of the number of parking spaces, requires nearly half of the land on the two subject lots to be set aside for landscaping which is considerably in excess of the zoning code requirements, and also calls for large caliper trees that would take a few seasons to recover from the transplant. There is really no compromise offered by the protestants that has any corresponding benefit to the church. The letter goes on to say that they object to the modification of the church's Special Exception because they want to preserve the residential character of the neighborhood. There will not be any change to the residential area. The church and its parking lot has been in the neighborhood for 60 years. There are a lot of churches throughout Tulsa that are located within residential neighborhoods with larger parking lots than the subject lot and they have no adverse affect on the neighborhoods, surrounding property values, etc. Some of the neighbors will object to the four driveway accesses and he looked at other churches that are in residential areas, and there are quite a few that have four or more driveways that feed into abutting residential streets. It is not unprecedented for a church to have four driveways, it helps them manage their traffic flow efficiently. What it comes down to is bringing the church's congregates, their families, their visitors, participants under the same roof instead of compelling them into other facilities leased for the programs. This is critical to the church members exercise

of their religion, worship together with their family, friends and their fellow congregates. It is an unreasonable burden on them to deny them this opportunity. This minor parking lot expansion is vitally important to the church to adequately meet their requirements for programs and to allow them to organize their facility to serve their worship objectives. This Special Exception should be approved.

Interested Parties:

Bill Ross, 8006 South Birch Avenue, Broken Arrow, OK; stated he owns property at 3717 East 37th Place and that particular property has flooded twice in the last 30 years. The neighbors are most concerned about the City Engineers look very closely where all the water is going to run off from the asphalt parking lot because the area has flooded many times with twice getting into the house. He likes the church being in the neighborhood and the planned parking lot. It is just that the drainage causes concern.

Mr. Van De Wiele stated that this Board does not address stormwater issues, that is part and parcel in the permitting department and the City Engineering Department. All construction projects have to go through a city engineering approval process where all the infrastructure is reviewed. All the utilities, including stormwater drainage, are addressed at that point. While the Board understands that drainage concerns are there this Board does not contemplate those and their approvals because that is handled by a different department within the City.

Jennifer Harmon, 3523 South Louisville Avenue, Tulsa, OK; stated she is the neighborhood advocate and has been for quite some time. Ms. Harmon presented a 1967 picture of the subject church and she stated that it does not appear there is a parking lot in the rear of the church lot so there have been parking lot additions. Ms. Harmon stated that she has had meetings with Mr. Medrano and appreciates the conversations despite the fact that they are still at an impasse. The reason several of the neighbors did not go to the meeting was because several decided they just did not want to attend because they were still very troubled, disappointed and traumatized by what has been happening. There was no collaborated effort for neighbors not to attend the meeting. This is the second time the church has applied for the parking lot expansion in the last six months. In the original proposal the preconstruction activities in order to get the parking lot included leveling all the trees which included the trees they were asked to preserve the last time they applied. It also included demolishing two duplexes. The first application was continued but the neighbors and the church could not reach an agreement. The things the neighbors wanted to discuss was the preservation of the trees, a lot less concrete, and the landscaping and that did not happen because the church pulled their application and decided to level the duplexes and trees first and reapply later. In preparation to demolish the duplexes and in the removal of the trees an owl was lost. On the surface the preparatory activities seem straight forward, however given their end result, the removing of the trees, the razing the duplexes the neighbors know that affordable housing was removed and they know that removing all the mature trees has removed a wind barrier, shade, a sound barrier and a temperature barrier. The church removed 25,000 square feet of leaf surface area. The neighbors that abut the lot where the duplexes and the trees were now wake

up to nothing sunlight in their windows and a view of a parking lot. Since the church's first application the neighbors have been forced to watch, the space they have called home for decades, the value character of the neighborhood be obliterated layer by layer. What is scary to the neighbors is that the church wants to put more asphalt in and the church wants the Board's approval without conditions. To the neighbors the ongoing degradation of a residentially zoned space exemplifies why all of you have the authority to at least set some kind of regulations or conditions to ensure their quality of life. On the church's current application they are requesting to modify an original Special Exception and in those minutes it states "to erect a church building" it does not say anything about a parking lot. The church wants to add 41 parking stalls to an enormous existing parking lot, the one that now has an amplified heat island effect without all the trees. It is the neighbors understanding that the church is only required to have 74 parking stalls and they have 101 parking stalls, and now they want 41 more. The church has stated that they need the addition, that they are congested and that the parking stalls are full but that is not the case. Ms. Harmon stated that ministry is her business with years of training so she understands the church stating they have different needs and overlapping services but she does not know that the church has brought anything before the Board to substantiate that is a giant need. The church parking lot is never full and there is ample street parking. The neighborhood is zoned RS-3 and that is in all four directions for several blocks. The subject lot is in the heart of the neighborhood and the neighborhood is not right off Harvard and not right next to a mixed use. The neighbors know that parking lots are not allowed by right in RS-3 but someone can apply for approval and like everyone else the church can follow the procedures to do so. This is an existing neighborhood and an area of stability. The Zoning Code makes it clear, "the intent of development in an existing neighborhood should be to preserve and enhance existing homes and not remove them permanently. In areas of stability change is expected to be minimal and small scale infill to preserve the valued character of the area". Adding roughly 18,000 square feet of asphalt is not a small scale infill project. Ms. Harmon stated that since all the trees are gone she sees a heat island effect from the existing lot and it became worse when the trees were removed. The church has met a base minimum requirement and 2" caliper trees are going to be able counter effect the heat island effect. The issue with the lighting is the taller light poles and the light intrusion that is already happening. The six foot screening works if the older mature trees were still there but it is hard to know how the six foot screening is going to overcome for the people that are sitting elevated on Louisville. The current plan for parking is not consistent with the vision of the Comprehensive Plan. It fails to demonstrate that it won't be and won't continue to be injurious to the neighbors. With the loss of the trees this becomes a quality of life issue. The neighbors obviously prefer no parking lot but to make the best of the situation and to preserve as much of the residential character of the area the neighborhood retained the services of an engineer, Mr. James Sotillo of Equal Land Management. Mr. Sotillo worked for the people that are restoring the soil and the large trees for the Gathering Place. Ms. Harmon stated that she put out a survey and about ten neighbors responded and they were ten that are in the immediate area, and she shared the survey with Mr. Medrano. When the duplexes with their concrete existed and the existing parking lot it was calculated that would equal about 28 parking spaces. If the church needed to make up

the other 13 spaces the parishioners could park in the street because there is a long part of 37th Street that is not in front of anyone's house. The neighbors plan has 28 spaces, has the six foot opaque fencing, larger caliper trees, shorter light poles for lighting, a four foot brick screening along 36th Place and instead of sod it calls for prairie grass for water retention. This proposal is essentially less asphalt and more green space and it is with the understanding from Mr. Sotillo that it absolves the church from the expense of all the water retention paraphernalia because there is less concrete. Ms. Harmon stated that she is a theologian with her specialty in community ministry and by virtue of that call she is the neighbors advocate. Her attention to the RLUIPA has never been off her radar because as an advocate if she felt that anything about the neighbors plan was a burden to the church practicing their religious activity she would be the first person to say this cannot be done. The neighbors proposed plan does not burden the church. She knows the church does not want to compromise the 13 parking spaces, but they have also said in their application that they affirm their willingness to accept reasonable conditions of approval if needed. What the neighbors have is a compromise that is reasonable and does not place a substantial burden on the church, it aligns with the vision of the Comprehensive Plan, it does work toward preserving the valued character of the area, and it obviously will not be injurious to the neighborhood. It is sustainable and will enhance the area and the neighbors' quality of life. The neighbors respectfully request the Board deny their application for a 40+ space parking lot, and if the Board is inclined to approve some parking the neighbors would request that the conditions derive from the neighbors plan.

Mary Huckabee, Attorney, 1820 East 16th Place, Tulsa, OK; stated she is an attorney at Connor and Winters and she represents Dr. and Mrs. William Cody. Dr. and Mrs. Cody have lived in their home since 1972 and they share their north fence with the two lots that are at issue today and they share their east fence with the current existing parking lot. This matter has been before the Board previously. At the June 28th meeting the church requested a Special Exception to expand its parking area on the subject site. The neighbors surrounding the church, including the Codys, expressed concern that extending the large existing parking lot into the neighborhood would injure the residential character of the Sonoma neighborhood. At that time the Board continued the hearing to allow the church time to confer with the neighbors and reach a compromise that accomplished the neighbors concerns and preserved some of the existing mature trees on the lot. Rather than taking that time to consult with the neighbors or to consider the trees or the parking issues the church disregarded the neighbors and the Board's own concern and withdrew their application. The church then brought in equipment to clear the lot and razed the duplexes that had been providing affordable housing. Since that time the church then began consulting with the neighbors. Today the church is before the Board asking for consideration of the application again. Now they are free of the affordable housing and the mature trees that were previously holding back their application. The Codys use to look out at the green canopy of their neighbors but should the Board approve this application their new view will be of light poles and they will hear the sounds of cars coming and going. The proposed parking lot footprint will far exceed the footprint of the duplexes. Obviously that is an issue not before the Board but it is a factor that is resulting in the Codys opposition. The church

already has dozens of spaces than necessary. Per the Zoning Code the church only needs 74 spaces and they currently have 101 spaces, and they are now asking the Board to grant the Special Exception to have a total of 142 spaces which is 68 more than the church needs pursuant to the Zoning Code. On the rare occasion should the church need extra spaces there is plenty of parking on the street. Today the church has brought forth an issue of combining an additional facility, a congregation that needs a facility, with the congregation that meets at the subject church. That is the first the neighbors have heard of that in spite of having meetings with the church's counsel. Even if that is the case the largest congregation is 180 meeting at one time and add in the 86 for a total 266 congregates at any one given time. Worse case scenario. The Zoning Code has built in that not every single person attending church drives a car so the policy of the Zoning Code is to divide the number of seats by three. Divide the 266 by three and the solution is 89. Worse case scenario. Even if you divide the 266 by two it is 133 which is very close to the neighbor's proposal of an alternate plan. Dr. and Mrs. Cody strongly oppose any parking lot on the subject site they have attempted along with Ms. Harmon and the Sonoma Midtown Neighborhood Association to reach a compromise. Dr. Cody hired an engineer to prepare a parking plan that creates a visual and sound buffer of green space between the Cody's home and the lot while still accommodating significant additional parking. The plan provides for better screening, larger trees and limits traffic access from the parking lot onto 36th Place to one outlet while eliminating just 13 of the proposed 41 spaces. With the elimination of those spaces the footprint is reduced to match the footprint of the duplexes that previously sat on the subject site. The landscape plan created by James Sotillo would improve water retention on the lot and prevent stormwater runoff from damaging Dr. and Mrs. Cody's property and straining the City's already stretched stormwater system in the area. The church is well aware of the neighbors concerns. The church met with the neighbors, including Dr. and Mrs. Cody, reviewed the results of the survey that Jennifer Harmon circulated among the neighbors, but in spite of being aware of the results the plan that is presented to the Board today is nearly identical to the plan that was presented at the June meeting. When the neighbors presented the alternative plan to the church they entirely rejected it. Ms. Huckabee stated that she inquired afterwards to see if there would be a counter offer or room for compromise the answer was that they had none and that the matter would be settled before the Board today. On behalf of Dr. and Mrs. Cody Ms. Huckabee asked the Board to reject the application in total. If the Board is unwilling to reject the application in total the Codys ask the Board do what the church thusfar has been unwilling to do. She asks the Board to reach a compromise solution that respects the concerns of the neighbors. The alternative plan provides significantly more parking for the church while protecting the Cody's and their neighbors from the light, sound, traffic and runoff that inevitably result from any parking lot.

Patricia Seibert, 2145 South Florence Avenue, Tulsa, OK; stated she represents the Tulsa Audubon Society. One of the goals of the Comprehensive Plan for future development is to bring nature into the city. Preservation of existing green space is mentioned several times in the Comprehensive Plan. Sadly, because of the reckless disregard of the neighbors and their living space, the LDS Corporation has made preservation impossible however restoration is a possibility. The small forested section

that everyone has been discussing forms a real eco-system. The continuous presence of trees and green space that roughly meanders along the former creek bed is the base of a habitat. The variety of mature trees are host to a wide variety of animals, both resident and migrant including the resident Barred Owls. The mature native species of trees are the vital link for the birds. They provide food, shelter and nesting locations, and when the trees were removed all the other vegetation was removed as well. A huge space of the exo-system was taken out. The fragmentation of this system increases competition for territory among the birds and the other creatures and migrant species of birds. Nature and development can go hand in hand but only if people of vision and appreciation for both make it happen. The plan shown to the neighbors is unimaginative, hasn't changed since the beginning, it seeks to maximize payment and provides a few bushes and trees to placate landscaping requirements. The plan is totally lacking in details. The corporation has refused to address the pleas of the neighbors at every turn. It will no doubt forge ahead with a plan that is the most cutrate and expedient for themselves unless this Board requires otherwise. The Sonomo Midtown neighborhood has done an enormous amount of research, consulted the Comprehensive Plan for Tulsa, many local planning organizations, ecological land management, and other groups of professionals to design an appropriate plan that will meet the needs of the church and the neighborhood. She and her colleagues at the Tulsa Audubon have seen the alternative design commissioned by the neighborhood and it is innovatiive, imaginative, environmentally sound and it is ecologically sustainable. Tulsa, and especially this neighborhood, deserves so much better than an enormous amount of pavement bordered by a few bushes and some saplings. On behalf of Tulsa Audubon she respectfully requests the Board deny the application and require a plan that addresses a substantial loss of habitat by restoring what was destroyed.

Ryan Cardamone, 3639 South Louisville Avenue, Tulsa, OK; stated his property backs up to the back portion of the subject lot. The reason he purchased the house is because of the forest like setting. Mr. Cardamone stated that his neighbor on the north side had been approached to sell because the church wants to build a school. This is not about a parking lot it is about making money.

Mr. Bond asked Mr. Cardamone if the owner of the subject property, regardless of who it might be, decided to rebuild a duplex on the property would he have a problem with that and does he think it would change the character of the neighborhood. Mr. Cardamone stated he does not think it would change the character of the neighborhood as long as the trees were left.

Mr. Van De Wiele asked Ms. Miller to state what the current lighting standards are in the Zoning Code because he has heard mention by several people about the lighting. Ms. Miller stated the lights must be shielded down and away from properties.

Chip Atkins, 1638 East 17th Place, Tulsa, OK; stated he has been coming to the Board for 30 years and this is the best alternative plan he has seen in 30 years. For a neighborhood to spend their own money on engineering and getting other professional

landscapers to draw a plan has never been seen before. Mr. Atkins asked when does a neighborhood receive notice of a Special Exception change and what triggers that notification? Ms. Miller stated the Zoning Code requires that everyone within a 300 foot radius of a subject property receive notice ten days prior to a meeting. Mr. Atkins asked what triggers the notification process. Mr. Van De Wiele stated it is the filing of an application.

Mr. Atkins stated that the church's application was not for the Special Exception originally, it was for a lot combination. Ms. Miller stated there was an application for a lot combination which is a different application and that did not require notifications. Mr. Atkins asked if that was part of this Special Exception. Ms. Miller stated that it was not. A lot combination is a separate application that goes before the Planning Commission. Mr. Atkins asked if the lot combination modified the Special Exception by adding the duplex lot to the church lot. Ms. Miller stated that it did not. Mr. Atkins asked why. Ms. Miller stated that is because the Special Exception is what this Board is considering right now. The lots can be combined but the applicant cannot automatically get the uses for the Special Exception until they appear before the Board of Adjustment. Mr. Atkins stated that he understands that but the applicant modified the Special Exception when they added the lot to the original property. Ms. Miller stated that the Special Exception is only good on the legal description as it was originally approved. The legal description does not expand just because the lot is combined. Mr. Atkins asked why. Mr. Van De Wiele stated that if it did the applicant would not need to be here today. The original application filed in the 1950s was on the original lot and they have a Special Exception for that lot. If a person combines 50 acres through a lot combination and on the 50 acres there are houses, gas stations, dental offices the person does not get to have a 50 acre tract, the person has to come to this Board to change the uses on each one of those lots in the 50 acres. Mr. Atkins stated that he understands that. Mr. Atkins stated the church added the lot to the Special Exception. Mr. Van De Wiele stated the church did not. They added the lot to the existing lot; they combined two lots. It is an erasing of a property line it is not a change of use. The Special Exception is the use.

Mr. Atkins stated that he lives in midtown with Christ the King Church, Methodist Church, a synagogue and they are all within three blocks of each other. There are enormous parking issues with people parking on the street. The maximum sized parking lot is Christ the King Church and it is the same as the subject church, and that congregation is almost three times the size of the subject church. The synagogue has the same issue. He sees this as a self imposed hardship. He has heard several neighbors come forward saying this proposal will be hard on their property. It will be hard on the property values. As a person who owns several properties in Swan Lake, Yorktown and other places means buying places next to a parking lot is cheaper. A parking lot devalues property. A parking lot does not help property values and he can prove it. This is injurious to the neighborhood because it will bring down the property values. Mr. Atkins hopes the Board denies this application.

Dale Roberson, 3155 East 68th Street, Tulsa, OK; stated she lives in Council District 2 but she is here representing the people who have an interest but could not attend today. Everyone is concerned about what is going on in the neighborhood. After listening today she is more concerned because it seems obvious that in the long run the church is planning to expand which will cause more changes and more hardship for the neighborhood. What is going on in the neighborhood could set a bad precedent for other neighborhoods in the City of Tulsa. The neighborhood has tried to make the best of a very tragic situation and the residents have presented an alternative proposal that is thoughtful, innovative and well researched. She hopes the Board will support the alternative plan as the best option for restoring the balance that formerly existed within a stable neighborhood.

Mr. Bond stated that the Board can vote to either approve or deny this application but they do not have the authority or power to implement an alternative plan. Mr. Van De Wiele stated the Board can approve the application for less than but the Board cannot give more. This is a modification request and the modification could be conditioned.

Bernard Richard Gardner, III, 3715 East 38th Street, Tulsa, OK; stated he is a federal real estate professional. He lives approximately two blocks from the subject lot. He is before the Board as an advocate for families and children who chose to live in the neighborhood. The neighbors are interested in the quality of life in the neighborhood and they are interested in the religious upbringing for the children and families. The neighborhood is a stable neighborhood that is growing and improving. He moved into the neighborhood after living in far south Tulsa after living there for about 24 years. When he first moved to 111th and Sheridan it was a beautiful pastoral area to live in but what he found in 24 years south Tulsa is now gridlocked. There are no sidewalks. There are no parks. There are no amenities that a lot of people value. Everyone has a shared interest in living in what is considered a more progressive cosmopolitan area with a walkable community with mass transit, with sidewalks, with properties closer together and protected for the residents that live there. In the midtown neighborhood, that is being represented today, the appraisals are growing faster than they are in the suburbs. They are accessible with public transportation. There is good shopping, restaurants, recreation parks, sidewalks and there is no gridlock in midtown. It is becoming a walkable community. In the neighborhood there is a corporate entity, a tax exempt entity which for the advantage of occasional visitors presiding predominantly outside of the neighborhood here is being proposed a permanent irrevocable destruction of any possibility of future residential use. The home site is at issue today. Mr. Gardner stated that he is concerned about what he is hearing today and witnessed in the process of becoming aware of what is happening within the heart and core of the neighborhood. What he sees taking place is the filling in of a Tulsa stormwater easement which would interfere with the City's access for maintenance, repair, expansion or replacement of the utility feature. He sees, without permit, the razing of homes which are family centers for residents of the neighborhood. This concerns him as a citizen of Tulsa. These activities concern him that they are examples of flagrant disregard for the rule of law in this situation and for the values of the residents of the neighborhood and the citizens of Tulsa. The neighbors are asking the Board for their

help. Mr. Gardner stated that it is his professional opinion if the Special Exception is granted it will cause irreparable damage to the quiet enjoyment and the values of the entire neighborhood. It will place specific damages for the home owners living downstream in the flood plain with the increased runoff of the new land use. This will also place specific and adverse burden on the owners and residents in a narrow area between the subject resident sites of these properties between Harvard and 36th Street. These impacts will affect the values of homes, families, children and residents of the neighborhood. Mr. Gardner stated that the applicant stated the proposed parking lot would have no change to the neighborhood and meets all requirements for a Special Exception but there are two criteria for a Special Exception. One, that the request be in harmony with the spirit and intent of the Zoning Code and secondly, that it will not be injurious to the neighborhood. He asks the Board to consider the possibility of this thriving neighborhood and the City of Tulsa for the long term.

David Frohling, 438 East Madison Street, Knoxville, MO; stated he is the applicant for the Board of Adjustment application and is the architect for the church. In hearing everything that has been said today, the firm he works for has been the architectural firm for the church for the past 25 years and he has been working with the church for the last 10 years. He did the 2012 renovation of the church that included the location of the storage building which came before the Board and everything is in compliance. A lot combination was done which added the duplex property to the church property and the reason for the hearing today is to expand the church parking lot onto the two subject properties, all of which is now under 3640 South New Haven. After the last Board of Adjustment meeting it was within the church's right to take down the trees and demolition permits were acquired to raze the houses. A water shed permit was acquired even though it was not absolutely necessary but it was done, however, there was no dirt moved. The church filled in the holes that were created by the removal of the duplexes and the trees. The church has not done anything in violation and have done everything by the book and are asking for a Special Exception that is required to do this legally and be in compliance with the Tulsa Code.

Rebuttal:

Chris Medrano came forward and stated that so much of what has been said does not have any substance value. The church is not here to play games. They want to demonstrate a need. The church numbers are not wrong just because they talk about 200, those are 200 members in attendance but the membership for the Riverside church is 632. The church would be able to have more of the members of the church that live in the area attend this facility so that is where the church has been burdened. No one here can pretend to understand how a 100% volunteer church works unless they are a part of one. Two hours prior to the meeting the church bishops meet and there are three hours of service for each one of the congregations. There is an overlap period where there are two congregations in the church at the same time, and that continues on as there are a large amount of people in the building. Trying to turn over that many people requires more parking stalls than the second and third hour. In order to get the parishioners safely in and out of the building the parking spaces are required. During the last Board of Adjustment meeting Ms. Jennifer Harmon stated that if there

was going to be anything done could the church please wait until September. Ms. Harmon has been real good about communicating with the church and in doing so she has stated that she has concerns about the start and ending of construction if the parking lot is approved. The church thought they would be doing the house demolition and the parking lot expansion at the same time because they did not think they would be denied, so it was part of the real estate transaction. Mr. Frohling stated that anyone can Google the church, he is not aware of any Latter Day Saints K through 12 school in the entire world. There is not, has not and will not be any plans of a school; there are no additional plans. There is not a monetary gain for anyone to gain by this action. The neighbors have said so much about the church not willing to communicate but they have tried to communicate. Protestant after protestant has come forward and said exactly what they think the church needs. There was an 18 year old young man that was at the church the day the trees were removed, and he was cursed and damned to hell and made to feel so uncomfortable that he refused to return to the area. The hostility has been on site and through the media has not been on of fostering a compromise. The neighbors provided a plan and said accept this. Ms. Harmon even said, and defended today, that the neighbors had a strategy meeting and stated they did not want to meet with the church. The church has not been given the opportunity to work through a compromise. The church is here willing to listen to what is said and take those things into consideration.

Stephen Schuller came forward and stated that if a person looks at the two lots in an aerial photo they contained two duplexes and some trees. What the church has proposed is a compromise because if the owners of the duplexes had razed the duplexes and built bigger ones they could have removed any of the trees without ever coming before the Board of Adjustment. The church is offering additional landscaping, more than what is seen at other churches and other church parking lots, additional stormwater runoff provisions to protect the area from flooding so this is a real compromise from the previous subject lots owner's could have done. There are wider setbacks than what is required. The protestant that lives on Louisville complained about not having trees on the parking lot side but the aerial shot shows the trees are still on his property and the property adjacent to this lot. What has been lost are trees that are going to be replaced by healthy trees.

Comments and Questions:

Ms. Back stated that she was not in attendance at the June meeting because she was not on the Board, and she agrees that the church had every right to fell the trees because it is their property. However, the Board acted in good faith by continuing the case and in asking the church to consider the trees and the neighbors. She sees an absolute impasse. She also has real concern that in 1958 churches were historically smaller neighborhood churches, they were not regional churches. They were not dealing with larger congregations that are seen today or what is considered a mega church. When neighborhoods are designed and subdivisions are layed out, especially an RS-3 with the smaller lots, most of the churches are on arterial streets and are not internal to a subdivision area. Her concern is where does it stop? And where is the line that determines where this becomes injurious to the neighborhood?

Mr. Van De Wiele stated that he knows the neighbors do not want a parking lot, but parking lots are ancillary uses to congregations. The problem with churches is that they have big parking lots that are empty five or six days a week and half of the day on church day. Technically, he believes the applicant was within their right to withdraw the first application and raze the houses. What he is surprised at, and what has been discussed for two hours, is everyone is arm wrestling over 10 to 12 spaces. He is wildly shocked and disappointed that someone did not say lets agree to cut it by six or seven, and the Board would be back to what they do today. Mr. Van De Wiele stated that the trees that were on the lot, at the last meeting there was a lot of discussion about owls and trees. There were a lot of those trees that were in PSO powerline easements and a bunch of them were nasty ugly trees, and he does not mean to offend anyone, but there were certainly a mature tree or two on this lot that could have been protected. In construction there is a good chance of killing trees but what he does not want to lose sight of is that ultimately what we are here for is whether the church should be able to expand it's parking lot. Mr. Van De Wiele believes that churches do not have an abundant cash flow to say let's buy property, do what is necessary and build it and they will come. He tends to think there is a need projected in the future for the Latter Day Saints Church to move members back in to the facility. He can imagine how seven to ten spaces would break the church's back or frankly how seven to ten spaces will break the neighborhood's back. He is shocked that the Board has been here for two hours talking about this application. He tends to agree that the bulk of the trees in the neighborhood are in other people's lots and to spite what everyone wants to think it is the property owner's tree because it is their property no matter how much you like looking at it. He is inclined to say it is a fair modification to add onto the parking lot but it is also a fair concession to give up a little of the parking. He is disappointed in what the Board has seen today.

Mr. Bond stated that at the last meeting there was a lot of talk about trees and about owls. Today he has heard a lot of talk about someone's exercise of religion. He does not care what a person's religion is and if he allowed that to come into sway here he would be acting in an unAmerican manner. It is not an issue of religion, it is an issue of parking so his vote will be contingent on how the Board treats anyone. Based on that, neighborhoods have character and the Zoning Code states that. There are elements to that character. Mr. Bond stated that he heard evidence today, from neighbors who believe the expansion of the parking lot will be in detriment to that character and will be injurious to that character. Mr. Bond stated that he has not heard evidence from neighbors and stakeholders that believe the parking lot would be beneficial. So based on that and the Zoning Code he does not think it is incumbent on him to support a compromise. He will not vote for this modification.

Mr. Van De Wiele stated that he has that same concern, but the Board has also heard from the same people saying this is injurious but it wouldn't be if there were 30 parking spaces. That is his struggle. One space is less injurious than 40 spaces but how much hair splitting is the Board to do.

Mr. Bond stated that he thinks what a lot of the neighbors are saying is they do not want any more parking. The neighbors are taking a lateral approach. The church is taking a lateral approach. That is why there has been four hours sucked up today that no one is going to get back and we are happy to do it. Mr. Bond stated that what he is hearing and interpreting is that the expansion of parking in a residential district from someone that is not a resident but there by Exception and not by right the neighbors are saying that is injurious.

Mr. White stated that his concern is from the first application and what they wanted to do with the expansion. The Board has had similar cases over the years and the most recent was the large church around 39th and Lewis that wanted to expand the congregation, and they had larger parking issues. The Board denied that application. That church subsequently moved to 91st and Memorial area. Mr. White stated this church is not located on a busy thoroughfare and it can be limited in growth because of that. He feels that by expanding the parking like they are proposing would indeed be injurious to the neighborhood. Just on a financial basis, the parking lot will lower the property values. He visited the site before and after and it is not pretty, it has lost some of the character. Mr. White stated that he lives in mid-town and he can appreciate the concept of the mid-town character. He can not support the application as is stated.

Ms. Back stated in dealing with the Comprehensive Plan with it being part of the existing residential neighborhood category and the areas of stability, the category states it is intended to preserve and enhance Tulsa's existing single family neighborhoods. Development activities in these areas should be limited to the rehabilitation or improvement of existing homes, and small scale in-fill projects as permitted. In areas of stability, the Comprehensive Plan talks about existing neighborhoods where change is expected to be minimal. Ms. Back stated that as it stands she cannot support the application.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-1-0 (Back, Bond, White "aye"; Van De Wiele "nay"; no "abstentions"; Flanagan absent) to **DENY** the request for a Modification of a previously approved Special Exception (BOA-2446) to expand a religious assembly use to permit expansion of an accessory parking area in the RS-3 District (Section 5.020), finding that it is injurious to the surrounding area; for the following property:

E305 BLK 10 LESS N25 FOR ST; E90 S140 N165 W180 E485 BLK 10; W 90 OF S 140 OF N 165 OF W 180 OF E 485 BLK 10, 36TH STREET SUBURB, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Back left the meeting at 2:10 P.M.

22172—Jack Arnold

Action Requested:

Variance of the required street setback in the RS-1 District (Section 5.030).

LOCATION: 6132 South Gary Avenue East (CD 2)

Ms. Back re-entered the meeting at 2:12 P.M.

Presentation:

Jack Arnold, 7310 South Yale, Tulsa, OK; stated he is the architect for the homeowner. The house is located in a cul-de-sac and the house projected over the building setback in the front and rear. The cul-de-sac is the reason for the request. Mr. Arnold stated he sent a letter to everyone that was in a 300 foot radius of the project and no one responded, and the homeowner went to the next door neighbors who had no problems with the proposal.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Flanagan absent) to **APPROVE** the request for a Variance of the required street setback in the RS-1 District (Section 5.030), subject to conceptual plan 12.6. The Board has found the hardship to be the shape of the lot and the cul-de-sac that abuts the lot. The Board finds 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 3 BLK 1, MANOR VIEW ESTATES ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22173—Angela Cherry

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:** 4612 East 31st Street South – **Tenant Space:** 4628 East 31st Street South (**CD 9**)

Presentation:

Angela Cherry, 4628 East 31st Street, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Van De Wiele stated that Board is in receipt of the applicant's spacing verification.

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, Bond, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Flanagan 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; for the following property:

LTS 11 & 12 BLK 2, CONWAY PARK, City of Tulsa, Tulsa County, State of Oklahoma

22174—Edward Jones

Action Requested:

Special Exception to permit vehicle sales in the CS District (Section 15.020-C). **LOCATION:** 715 South Sheridan Road East (**CD 3**)

Presentation:

Edward Jones, 3437 East 84th Street, Tulsa, OK; stated he represents Domingo Muldanado. Mr. Muldanado purchased the subject property for a car lot. Mr. Muldanado has another car lot located on Admiral Boulevard. When Mr. Muldanado purchased the subject lot there was an existing car lot but he discovered that it had been operating illegally. Mr. Muldanado wants to operate his car lot legally and maintain his good reputation. Mr. Jones stated that a parking layout has been submitted to INCOG so that the lot will comply with the City Zoning Code.

Mr. White asked Mr. Jones if there would be any storing of tires or anything like that. Mr. Jones stated there would be no storing of tires and there would be no storage at all.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Flanagan absent) to **APPROVE** the request for a Special Exception to permit vehicle sales in the CS District (Section 15.020-C). The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LTS 12 & 13 BLK 20, SHERIDAN HILLS, City of Tulsa, Tulsa County, State of Oklahoma

Theresa Landers, 6930 East 7th Street, Tulsa, OK; stood up and stated that she has an interest in the case that was just heard.

Mr. Van De Wiele stated that he asked if there were any interested parties and no one raised their hand or stood up.

Ms. Landers stated that she signed in with the case number and wanted to give her opinion on this case. Ms. Landers asked the Board to deny this case. She is before the Board on behalf of herself and the neighborhood association of 1,500 houses. The streets that surround the neighborhood are already lined with used junker shops and have more junker shops than used car lots. Ms. Landers stated there is a used car lot at the corner of 11th and Sheridan. There is another shop, Frank’s Tires, that has only five cars and the lot is well maintained.

Mr. Van De Wiele stated the Board has already acted on this case and the other thing that is now applicable to these type of small lots are measures to prevent the packing of a lot that has been seen in the past.

Ms. Landers stated the neighborhood needs business development. There is a proliferation of used car lots in the area. There are six on Sheridan now. The market does not sustain that kind saturation. Mr. Van De Wiele stated that if the market won't sustain the lot and Ms. Landers interrupted by saying that a failed business does not help the neighborhood. In the meantime, if the proposed business does go belly up and he quits he will not do anything to clean up the neighborhood. Used car lots tear down the neighborhood even farther because they prevent someone else from doing business. Car lots do not take care of their trash, they do not take care of their easement, they do not take care of anything.

Mr. Van De Wiele told Ms. Landers that he is sorry that she did not hear him invite the interested parties in this case. Ms. Landers stated that she did sign in to be heard. Mr. Van De Wiele stated that the sign in process is not how this Board recognizes interested speakers. Ms. Landers stated that she understands it is a late hour and she has a life too. Mr. Van De Wiele apologized to Ms. Landers and stated there are measures in place to address concerns.

22175—Fidencio Jaimes

Action Requested:

Special Exception to permit a carport in the street (front) yard with modifications to the allowable height, square footage and setback requirements; Variance to allow a structure to extend into the street right-of-way and/or planned street right-of-way (Section 90.090). **LOCATION:** 7118 East Easton Place North **(CD 3)**

Presentation:

Fidencio Jaimes, 7118 East Easton Place, Tulsa, OK; stated she is requesting a carport because she does not have a garage.

Mr. Van De Wiele asked Ms. Jaimes if she plans on finishing the project if the Board approves the request. Ms. Jaimes answered affirmatively.

Ms. Miller stated the applicant will need to obtain a license agreement for the carport being in the right-of-way, and the staff report states the applicant does not have one. Ms. Miller asked Ms. Jaimes if she has applied for the license. Ms. Jaimes stated that she has not. Mr. Van De Wiele stated that the license agreement with the City is because the carport is in the easement of the City right-of-way so a license agreement with the City is required.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Flanagan absent) to **APPROVE** the request for a Special Exception to permit a carport in the street (front) yard with modifications to the allowable height, square footage and setback requirements, subject to conceptual plans 15.10, 15.11 and 15.12. The structure is to be no larger than shown on page 15.10, 15.11 and 15.12. The approval is subject to finishing out the eave and ceiling area of the carport. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 7 BLK 8, MAPLEWOOD 2ND ADDN OF TR A POLSTON ACRES, City of Tulsa, Tulsa County, State of Oklahoma

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Flanagan absent) to **APPROVE** the request for a Variance to allow a structure to extend into the street right-of-way and/or planned street right-of-way (Section 90.090), subject to conceptual plans 15.10, 15.11 and 15.12. The Board has found that the hardship is the house was built without a garage. The approval is subject to receiving a license agreement for having the structure within the City right-of-way. The Board finds that the following facts, favorable to the property owner, have been established:

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

**LT 7 BLK 8, MAPLEWOOD 2ND ADDN OF TR A POLSTON ACRES, City of Tulsa,
Tulsa County, State of Oklahoma**

22176—Lety Bustos

Action Requested:

Special Exception to permit two carports in the front (street) yard with a modification of the requirement that all sides of the carport be open and unobstructed (Section 90.090-C). **LOCATION:** 2867 East 44th Place North **(CD 1)**

Presentation:

Lety Bustos, 7128 North Trenton Avenue, Tulsa, OK; stated she would like to have two carports on the subject house.

Mr. Van De Wiele asked if the property was a duplex. Ms. Bustos stated that it is not a duplex.

Mr. White asked Ms. Bustos if she was going to add to the existing carports. Ms. Bustos stated that she is not going to add to the existing carports.

Interested Parties:

Delores Gibbons, 2873 East 44th Place North, Tulsa, OK; stated that the two carports block her view and it should not. She has no objections to the two carports but they are blocking her view. The owners are making the subject property a shop and it is not zoned for a work shop. Ms. Gibbons stated that she has to walk all the way to the curb to see her grandchildren get off the school bus and she should not have to do that. She is not aware of any closed in carports in the neighborhood. Ms. Gibbons stated that she is opposed to this request.

Rebuttal:

Lety Bustos came forward and stated there is a side on the carport but she is willing to have it removed. Ms. Bustos agreed the carport should not be blocking the view of anything.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Back, Bond, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Flanagan absent) to **APPROVE** the request for a Special Exception to permit two carports in the front (street) yard with a modification of the requirement that all sides of the carport be open and unobstructed (Section 90.090-C), subject to “as built”. The two carport sides are to be unobstructed and open with the siding on the carports currently be removed. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not

be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 32 BLK 4, LAKE-VIEW HGTS AMD RESUB PRT B1-2 & B3-6, City of Tulsa, Tulsa County, State of Oklahoma

22179—John Gabarino, III

Action Requested:

Verification of the 300 foot spacing requirement for a bar from public parks, schools, and religious assemblies and 50 feet from an R-zoned lot. **LOCATION:** 301 South Frankfort Avenue **(CD 4)**

Presentation:

John Gabarino, 1629 East 37th Street, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Van De Wiele stated the Board is in receipt of the applicant’s spacing verification.

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, Bond, Van De Wiele, White “aye”; no “nays”; no “abstentions”; Flanagan 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 bar subject to the action of the Board being void should another conflicting use be established prior to this bar; for the following property:

LT 8 BLK 114, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

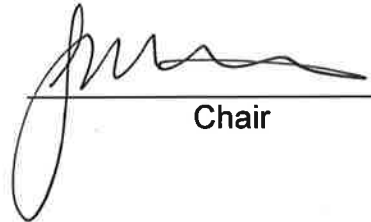
None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 4:38 p.m.

Date approved: 1/10/17



Chair