

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1175
Tuesday, January 10, 2017, 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 Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, January 5, 2017, at 10:40 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 4-0-0 (Back, Flanagan, Van De Wiele White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the December 13, 2016 Board of Adjustment meeting (No. 1174).

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 Amended **Minutes** of the November 17, 2016 Board of Adjustment meeting (Special Meeting).

UNFINISHED BUSINESS

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The applicant has withdrawn the application.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; 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 February 14, 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 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 permit a duplex in the CH District (Section 15.020) to the February 14, 2017 Board of Adjustment meeting; for the following property:

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

NEW APPLICATIONS

22186—Ralph Smith

Action Requested:

Variance of the required open space on the lot from 2,878 square feet (approved by BOA-16467) to 2,253 square feet in the RS-3 District (Section 5.030).

LOCATION: 1708 South Newport Avenue East **(CD 4)**

Presentation:

The applicant requests a continuance to January 24, 2017 due to medical reasons.

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 of the required open space on the lot from 2,878 square feet (approved by BOA-16467) to 2,253 square feet in the RS-3 District (Section 5.030) to the January 24, 2017 Board of Adjustment meeting; for the following property:

LT 2 BLK 20, MORNINGSIDE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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 asked the applicants and the interested parties if they understood and asked the applicants or interested parties what they would like to do. The audience nodded their understanding and no one requested a continuance.

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UNFINISHED BUSINESS

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 the additional exhibits that he provided to the Board are pictures of the superimposed signs and distances on Highway 169 in association with the subject property. At this point Mr. Horkey explained the orientation of the pictures to the Board members. Mr. Horkey stated that when the applicant purchased the subject property the former owner retained the billboard lease on the property.

Mr. Van De Wiele asked Mr. Horkey how the former owner was able to retain the lease to the billboard in question, because it sounds like the former owner retained that portion of the property causing a lot split that wasn't split. Mr. Horkey stated originally the property was two lots and there was a house on it. The house was removed and the billboard is on the north portion of the subject property which was the house side. Formally there were three addresses for the subject property and once the house was razed the City of Tulsa combined the property as one piece and only one address is recognized for the subject property.

Mr. Van De Wiele asked Mr. Horkey what the former property owner owns; does he own the 10 x 10 piece of ground the billboard pole sits on. Mr. Horkey stated he is not certain nor is he qualified to say.

Interested Parties:

Jeremy Scheulen, 5866 South 107th East Avenue, Tulsa, OK; stated he is the owner of Hitchlt. He purchased the property from the former owner but he did not want to sell the property with the sign, so an agreement was made that he could keep the rights to the sign but not hold the property the sign is on. Mr. Scheulen stated that it is written up that he owns the property with an easement to the sign property, and that is the only reason the former owner is tied to this action.

Mr. Van De Wiele asked Mr. Scheulen if the former owns the easement to be able to access the property on which the billboard sign is located. Mr. Scheulen answered affirmatively.

Mr. Scheulen stated that when he purchased the property he did not know that the billboard sign took away his rights to have a company sign until he applied for signage,

and that is why he is before the Board today. Mr. Scheulen stated that he operates a business on the subject property therefore he thinks he should be able to have a sign to advertise that business.

Mr. Horkey stated that INCOG's recommendation identifies the subject property as an employment area and an area of growth according to the Comprehensive Plan. It encourages the economic development of the area. There is nothing being taken away from anyone in this situation, but the applicant is looking to have equal footing for advertisement of the subject business as the other businesses in the area.

Todd Garcia, 5910 South 107th East Avenue, Tulsa, OK; stated the existing signs are close together but he feels the applicant does not have the right to block his sign. When he purchased the property there is an allowed amount of footage allowed for signage. Mr. Garcia stated if the applicant would not block his sign he would not have a problem with another sign. On the north side of a sign a person does not get a lot of advertisement from it but you don't want to kill what little bit is received.

Pat Selcer, Lamar Outdoor Advertising, 7777 East 38th Street, Tulsa, OK; stated the applicant is exactly correct about the property. There were three pieces of property with signs, they were combined, and there was an easement cut out to keep the lease income. Mr. Selcer stated he is not against the sign request but he cannot have a sign blocking his billboard. The subject billboard is a digital billboard that has been invested in since 2008 and even a partial blockage will deteriorate it.

Rebuttal:

Ed Horkey came forward the proposed sign will be farther than five feet back, and the leading edge of the sign is equal to the fence. Mr. Horkey explained the footage of sign placement and the spacing between the signs. Mr. Horkey believes he has demonstrated that the proposed sign is not going to be a hindrance to either of the parties involved.

Mr. Van De Wiele stated that if a person only has three seconds to view a sign as they are driving on the entrance ramp then the proposed sign would be taking two seconds away from that. Mr. Horkey stated that his rebuttal to that is that the billboard isn't placed where it is positioned because of the entrance ramp to the highway, the billboard

is placed in that position because its visibility from the highway. Mr. Van De Wiele agreed with that statement.

Comments and Questions:

Ms. Back stated this situation is creating sign clutter. The sign on the building is very visible from the highway. It may not be what the owner would like to have but he does have signage.

Mr. Van De Wiele stated that he has an issue with the hardship. He does not know that it was created by the current property owner knowingly, but the way the business was

struck was certainly a part of that. He believes there is a way the signs could be arranged so they would not interfere with one another but he has an issue with the hardship.

Mr. White stated that he too has a problem with the hardship. The fact that the situation was not researched enough is not a hardship.

Mr. Van De Wiele stated that this situation screams of a financial hardship and the reason the deal was struck is because the former owner wanted to retain the cash flow of the Lamar billboard sign.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-1-0 (Back, Van De Wiele, White “aye”; Flanagan “nay”; no “abstentions”; Bond absent) to **DENY** 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) due to a lack of a hardship; 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

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NEW APPLICATIONS

22177—Jerry E. Green

Action Requested:

Special Exception for parking and/or storage of a recreational vehicle in the street yard (Section 45.150-C). **LOCATION:** 238 South 70th East Avenue **(CD 3)**

Presentation:

Jerry Green, 238 South 70th East Avenue, Tulsa, OK; stated he has an RV and it is parked on his property so he does not need to pay for storage. It is up far enough that if there were a sidewalk it would not be blocking the sidewalk.

Mr. Van De Wiele asked Ms. Moyer if anyone went to the site and measured where the RV is sitting in relation to the street. Ms. Moyer stated that she did not personally go measure the distance because she assumed the Zoning Officer had measured to know that the RV was within the 12 foot setback from the curb.

Mr. Green stated that a year ago Neighborhood Inspections came to the house and measured the distance and he was told it was okay. A year later someone else came to

the house and the RV is no longer okay. So he does not understand how it could be okay to park the RV where it is one year and the next year it is not okay.

Mr. White asked Mr. Green if it was the same RV. Mr. Green answered affirmatively.

Mr. Green stated that he had purchased a timber and placed it so he would know where to stop the RV when it is parked.

Mr. Van De Wiele asked Mr. Green how long he parks the RV in the yard; is it parked there 12 months of the year. Mr. Green stated that it is probably parked there 10 months of the year. Mr. Green stated that he just retired and he is waiting for his wife to retire in a year, then they plan on traveling. Mr. Green stated that the neighbor to the north does not have a problem with the RV but the neighbor to the south has stated that he has a problem with the RV being there.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 2-2-0 (Van De Wiele, White “aye”; Back, Flanagan “nays”; no “abstentions”; Bond absent) to **APPROVE** the request for a Special Exception for parking and/or storage of a recreational vehicle in the street yard (Section 45.150-C), subject to the RV as shown on page 6.6 is parked as close to the structure as possible. The approval will be for two years from today’s date, January 2019. 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 8 BLK 5, 3RD CRESTVIEW ESTATES, CRESTVIEW ESTATES SECOND, City of Tulsa, Tulsa County, State of Oklahoma

MOTION FAILED

On **MOTION** of **WHITE**, the Board voted 3-1-0 (Back, Van De Wiele, White “aye”; Flanagan “nay”; no “abstentions”; Bond absent) to **APPROVE** the request for a Special Exception for parking and/or storage of a recreational vehicle in the street yard (Section 45.150-C), subject to the RV as shown on page 6.6 is parked as close to the structure as possible. The approval will be for one year, summer of 2018. 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 8 BLK 5, 3RD CRESTVIEW ESTATES, CRESTVIEW ESTATES SECOND, City of Tulsa, Tulsa County, State of Oklahoma

22178—Whistler Sign Company – John Allred

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign 1,200 feet from another outdoor advertising sign on the same side of the highway; Verification of the spacing requirement for a dynamic display outdoor advertising sign of 1,200 feet from any other dynamic display outdoor advertising sign facing the same traveled way (Section 60.080 and Section 60.100). **LOCATION:** 14149 East Admiral Place North **(CD 3)**

Presentation:

John Allred, Whistler Sign Company, 11063 South Memorial, 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, 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 between outdoor advertising signs for either a dynamic display or conventional billboard subject to the action of the Board being void should another outdoor advertising sign or conflicting use be constructed prior to this sign; for the following property:

LT 1 LESS BEG SWC LT 1 TH N429.58 NE145.61 S319.88 S135 W150 POB & LESS BEG NEC LT 1 TH S APR 20 W APR 270 SW APR 448.14 N APR 91.53 CRV LF 14.40 E698.03 POB FOR HWY BLK 1,C EMIT WILSON, City of Tulsa, Tulsa County, State of Oklahoma

22180—Ronnie Potter

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:** 11512 East 21st Street South **(CD 6)**

Presentation:

Ronnie Potter, 15405 East 530 Road, Inola, OK; no formal presentation was made but the applicant stated he is the agent for the owner.

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, 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; for the following property:

LT 1 BLK 1, BURRIS SQUARE, City of Tulsa, Tulsa County, State of Oklahoma

22181—J. D. Harp

Action Requested:

Special Exception to increase the permitted driveway width from 20 feet to 30 feet in the right-of way and on the lot within in an RS-4 District (Section 55.090-F). **LOCATION:** West and South of the SW/c of South 193rd Avenue East and East 41st Street South **(CD 6)**

Presentation:

J. D. Harp, 11885 South Yale, Tulsa, OK; stated the property was developed in 2007 and due to economic dips it has taken longer than expected to complete. About 98% of the houses in the subdivision have three car garages. In January 2017 the zoning code changed and only allowed two car garages in an RS-4 District. Originally the RS-4 zoning was chosen because of the 20 foot setback for garages. He would like to complete the development with three car garages as it was started.

Ms. Miller stated this situation is not impacted by the change that is being proposed in regards to driveway widths. This is an example of looking at things on a case by case basis, because it could be argued that it would be appropriate to have that size of driveway because it is in character with the neighborhood. The change in the driveway width in the Zoning Code have to do with recognizing the fact that it was already approved in a PUD, that the approval is still valid, and the applicant does not need to go through the Special Exception process.

Mr. Van De Wiele asked if it would be an appropriate statement to say that when the neighborhood was platted the driveway widths were approved. Ms. Miller stated that it was a different measure. It was not a width, it was a lot coverage. There are examples where it was a complicated math equation, and the inspectors did not check it so a lot a of three car driveways were approved when in fact they were not in compliance with the Code. Ms. Miller stated there were no approvals for these driveways so she is not sure if they meet the lot coverage that would have allowed it or not.

Mr. White asked Ms. Miller if this will create problems for the Code. Ms. Miller stated that it would not because it is an example of a neighborhood that is in character. The key is that it is in character with the neighborhood.

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 permitted driveway width from 20 feet to 30 feet in the right-of way and on the lot within in an RS-4 District (Section 55.090-F), subject to the property description shown on page 9.2, under legal description and indicated on the subdivision plat shown on 9.10. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 1 BLK 3; LT 7 BLK 2; LT 2 BLK 3; LT 8 BLK 3; LT 10 BLK 3; LT 4 BLK 8; LT 3 BLK 9; LT 14 BLK 9; LT 3 BLK 4; LT 3 BLK 7; LT 25 BLK 6; LT 9 BLK 7; LT 12 BLK 7; LT 13 BLK 7, CYPRESS CREEK, City of Tulsa, Tulsa County, State of Oklahoma

22182—Brent Barnes

Action Requested:

Special Exception to permit used car sales in the CS District (Section 15.020).

LOCATION: 1901 South Garnett Road East (**CD 6**)

Presentation:

Brent Barnes, 2830 East 83rd Street, Tulsa, OK; stated Harley Holdings is the owner of the property. There are four contiguous parcels of land that span 250 feet from 19th and Garnett eastward, including 1901 South Garnett Road. He intends on opening a used car sales lot on the subject property. The entity that will operate the used car sales lot is Affiliated Garnett, Inc. and they are currently active with the Oklahoma Secretary of State however they have not begun operations. He thinks the main concerns are the stacking of cars as seen on 11th Street but the plans are to have 12 to 20 cars on the lot. There have been 24 spaces allocated for parking inventory so at no point in time will the lot be at 100% capacity. There will be two employees on site and the hours of operation will be 10:00 A.M. to 8:00 P.M., Monday through Saturday.

Mr. Van De Wiele asked Mr. Barnes if the existing building was going to be used as a sales office. Mr. Barnes answered affirmatively.

Mr. Van De Wiele stated that the site plan designates a convenience store, and he asked Mr. Barnes if there were plans for opening a second use on the subject property. Mr. Barnes stated the convenience store is leased and is currently operating with allocated parking in front of the store.

Mr. White asked Mr. Barnes what was sold at the convenience store. Mr. Barnes stated they sell anything that is sold at other convenience stores, i.e., soda.

Mr. Van De Wiele asked staff if there is sufficient space for the required parking for the car lot/office use and retail/convenience store use and 12 to 20 cars. Ms. Moyer stated that at this point the parking requirements have not been calculated for both uses on the site. Mr. Van De Wiele asked if that would happen at some point, assuming the Board approves today's request. Ms. Moyer stated at this point the applicant is seeking only approval for the use and the Permit Office will calculate the parking requirements for both uses to ensure that the property meets the requirements for both uses.

Ms. Miller asked Mr. Barnes if he submitted the site plan to permitting. Mr. Barnes stated that he submitted the site plan to Nathan Foster. Ms. Miller stated that Nathan works for INCOG, and she asked Mr. Barnes if the City of Tulsa Permit Office had seen the site plan. Mr. Barnes stated that Nathan Foster asked for a detailed site plan. Ms. Miller does not think the City of Tulsa Permit Office has seen the site plan. Ms. Van De Wiele asked Ms. Miller if the Zoning Code clean up changes taken to the Tulsa Metropolitan Area Planning Commission included the dimensional parking standards. Ms. Miller answered affirmatively and stated that it was heard last week with a recommended approval to Council.

Interested Parties:

Park Murphy, 11188 East Skelly Drive, Tulsa, OK; stated he works for a management company that represents eight to ten buildings on 20th Street and another five buildings on 19th Street. The main concern with the car lot is the availability for more car lots to

come into the area if today's request is approved. This area is congested now with McDonalds and the Hispanic grocery store.

Rebuttal:

Brent Barnes came forward and stated he has no plans to add any more car lots. He is not sure where additional car lots could possible go because on the west side of Garnett there is a giant parking lot for all the retail space. In regards to traffic flow, he has an entrance and exit onto 20th Street which will help, in addition to the direct access to Garnett. On the north side there is McDonalds and on a typical day they may see approximately 150 cars drive through their parking lot. With only 12 to 20 cars on the lot for sale there may be eight or nine cars come and go from the subject property on a given day.

Comments and Questions:

Mr. Van De Wiele stated that if the Board is inclined to approve this request he has concerns based on the proposed use there has to be enough parking for the car lot, convenience store, employees, inventory and the car lot customers.

Mr. Barnes came forward and stated that if necessary the two lots labeled sod on the site plan are both Harley Holdings parcels and they could be utilized for parking. Mr. Van De Wiele stated the Board wants to make sure, whether it is necessary to increase the paved parking or not, is sufficient not only for the employees and customers but also the inventory while also complying with the parking lot layout dimensions avoiding the over loaded car lot.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 3-1-0 (Flanagan, Van De Wiele, White "aye"; Back "nay"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to permit used car sales in the CS District (Section 15.020), subject to conceptual plan 10.12. The approval is also subject to the parking layout dimensional requirements in Section 55.090D. The applicant is to submit a parking plan for approval to the INCOG staff. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 1-4 BLK 3, 21 GARNETT PLACE RESUB PRT L1 & L2-3 GARNETT PLAZA, City of Tulsa, Tulsa County, State of Oklahoma

22183—Kevin Hughes

Action Requested:

Variance to reduce the open space requirement to 3,834 square feet in the RS-3 District to permit construction of a new garage (Section 5.030). **LOCATION:** 1643 South Evanston Avenue East **(CD 4)**

Mr. White abstained at 2:17 P.M.

Presentation:

Kevin Hughes, 1531 South Delaware Place, Tulsa, OK; stated he does not think there was consideration given to the fact that there is going to be 70 feet of driveway when the math calculations were done. Mr. Hughes stated that he was refused because the total footprint of the house, the driveway and the new garage would be 96 feet over the allowance. So he wants to make sure the 70 feet of driveway was considered and that he is only asking for forgiveness of 30 feet. The construction is on the easement and 3'-6" off the utility line.

Mr. Van De Wiele asked Mr. Hughes if he was removing the existing garage. Mr. Hughes answered affirmatively. Mr. Hughes stated the old building was too small and is deteriorated, and the existing slab cannot even be used.

Mr. Van De Wiele asked Mr. Hughes if there were going to be living quarters in the garage. Mr. Hughes stated there will be an area like an efficiency apartment to be used for entertaining. Mr. Van De Wiele asked Mr. Hughes if there were any plans to rent that area out. Mr. Hughes stated that it would not be rented out.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 3-0-1 (Back, Flanagan, Van De Wiele "aye"; no "nays"; White "abstaining"; Bond absent) to **APPROVE** the request for a Variance to reduce the open space requirement to 3,834 square feet in the RS-3 District to permit construction of a new garage (Section 5.030), subject to conceptual plans 11.9 and 11.10. The Board finds the hardship to be the older garage is in disrepair and a foundation that is no longer solid so a new garage cannot be constructed on it. The living quarters will not be used for rental purposes. 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 14 BLK 7, AVONDALE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. White re-entered the meeting at 2:22 P.M.

22184—Linda Foster

Action Requested:

Special Exception to permit a manufactured housing unit in the RM-2 District (Section 5.020). **LOCATION:** 1018 South 51st Avenue West **(CD 1)**

Presentation:

Linda Foster, 1018 South 51st West Avenue, Tulsa, OK; stated when she purchased the property she was told that it was zoned for a manufactured home. She does not want to live in the manufactured home forever, she wants to live there until she can build a regular frame house.

Mr. White asked Ms. Foster if the manufactured home on the property was skirted. Ms. Foster stated that it was not but it will be. Mr. White asked Ms. Foster how the manufactured home is. Ms. Foster thinks it was built in 1979.

Interested Parties:

Harry Francis, 4945 West 11th Street, Tulsa, OK; stated his concerns are that there are already two other manufactured homes in the same area and they are boarded up and abandoned. He is trying to improve his property and get his property values up. If another manufactured home is allowed to be moved in it will drive property values down. He has put several thousands of dollars into his house in improvements and wants the value to stay up.

Wade Williams, 4910 West 11th Street, Tulsa, OK; stated he has the same concerns as his neighbor. He has to protect his interests. He paid quite a bit of money for his house and also has done improvements on the house with plans for more improvements. The neighbors have worked very hard to clean up the neighborhood. Everyone is very interested in maintaining their property values and the serenity of the neighborhood. The manufactured home that has been placed on the subject property will not do

anything to improve the economic standing of the neighborhood and it will be detrimental to the market values. The subject manufactured home has been on the property for several months and very little has been done to improve the condition of the manufactured home. There has been trash and debris scattered in the yard at various times. Another manufactured home is not needed in the neighborhood.

Rebuttal:

Linda Foster came forward and stated that since the manufactured home has been on the subject property it has been broken into on several occasions. Her generator was stolen so she cannot live there. Ms. Foster stated that she has been trying to get utilities hooked up since the manufactured home was placed on the property. If she had been able to live there she would have been working on the property, fixing the house and taking care of the property. She has had people throw trash in the yard while she was there. Ms. Foster stated that if she can get the utilities turned on she will live there and it will be her home until she can build a frame house.

Mr. Van De Wiele stated that he has a concern over the gravel drive and parking area. Anything that a car parks on or drives on must be concrete. Ms. Foster stated that it will be changed.

Ms. Foster stated that she also has been told the home must six feet higher than it is now because it is in a flood plain. Mr. Van De Wiele asked Ms. Miller if this would be discussed at the Permit Office. Ms. Miller asked Ms. Foster how many conversations she has had with the Permit Office. Ms. Foster stated that she has been going to the Permit Office for six months prior to today. Ms. Miller stated that she is not sure what has been discussed or what the Permit Office has had to say about this.

Comments and Questions:

Mr. White stated that he has been in the neighborhood several times looking at submitted applications and seen the condition of the neighborhood, and he admires the people that are making an effort to improve the area. He appreciates the applicant's problem but he has trouble approving a 37 year old mobile home in an area where the people are trying to make a recovery. He cannot support this application.

Ms. Back agreed with Mr. White. Ms. Back stated that she appreciates and understands the situation the applicant is in. She has a problem with the age of the manufactured home and cannot support the application.

Mr. Flanagan stated this application is not in harmony and not in the spirit of the neighborhood. He thinks the manufactured home would be detrimental to the existing property owners.

Mr. Van De Wiele stated that he agrees, in these types of areas in West Tulsa there is a higher concentration than other parts of Tulsa. There are people in the neighborhood striving to make improvements and those that aren't. It sounds like Ms. Foster wants to be one of those that is on the right side of that equation. In the past he has tended to

lean toward approving something, even with a fairly short time period, to truly test whether the intention is to break ground on a stick built house. It sounds like there are flood plain issues, and there is definitely utility extensions and paving issues that would be against a short time frame. The age of the manufactured home is an issue as well.

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 **DENY** the request for a Special Exception to permit a manufactured housing unit in the RM-2 District (Section 5.020) finding it is injurious to the neighborhood and detrimental to the public welfare; for the following property:

N 100' S 200' LT 1 N 100 S 200' E 13.77' LT 2 BLK 8, VERN SUB AMD, City of Tulsa, Tulsa County, State of Oklahoma

22185—Kurt Barron

Action Requested:

Variance to allow a detached accessory building to be located less than 25 feet from the rear property line (Section 90.090.C-2.b). **LOCATION:** 1755 South St. Louis Avenue East **(CD 4)**

Mr. White abstained at 2:39 P.M.

Presentation:

Kurt Barron, Barron & McClary General Contractors, 1424 South Harvard, Tulsa, OK; stated the rear of the subject property faces Swan Lake and this request is for a small shed. The hardship is the water feature of Swan Lake and an existing pool with hardscape and an existing patio. The owner would like to have the shed for additional storage because storage space is always an issue with older homes. The shed will have a unique look and not a Home Depot plastic shed.

Mr. Van De Wiele asked Mr. Barron if he had spoken to the neighbor to the south of the subject property. Mr. Barron answered affirmatively and stated that he is in favor of the project.

Interested Parties:

Stephen Poleman, 1755 South St. Louis Avenue, Tulsa, OK; stated he is the home owner. Mr. Poleman stated if a person is standing on Swan Drive there is tiered rock landscaping, a hedge and a fence and the storage shed will be inside all of that, so the shed will not be visibly close.

Mr. Van De Wiele asked Mr. Poleman how high up is the pool deck. Mr. Poleman stated that it is at least six feet. Mr. Poleman stated the pool would be a little higher because it is built on a decking and there is a walkway that will be between the pool and the shed. The shed will be used for the storage of yard and pool equipment.

Mr. Van De Wiele asked if the shed will be painted and designed to match the house. Mr. Poleman answered affirmatively.

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 Variance to allow a detached accessory building to be located less than 25 feet from the rear property line (Section 90.090.C-2.b), subject to conceptual plans 13.12, 13.13 and 13.14. The Board has found that the hardship is the topography and the odd shape of the subject lot. The proposed shed is to be painted to match the house and to be designed as depicted on the conceptual plans. 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:

PT LTS 3 & 4 BG 50 S OF NWC LT 3 TH S 62.4 SE 38.7 S 5.5 SE 51.25 NELY ON CRV 50 NW 54.9 TH W 101 TO BEG BLK 1, SWAN PARK, City of Tulsa, Tulsa County, State of Oklahoma

Mr. White re-entered the meeting at 2:47 P.M.

22187—Matt Dawson

Action Requested:

Variance to reduce the rear setback to 15 feet for an addition to a non-conforming structure (Section 80.030-D). **LOCATION:** 4755 South Yorktown Place East (CD 9)

Presentation:

Matt Dawson, Dawson General Contracting, P. O. Box 52414, Tulsa, OK; stated his client would like to add an office/study area to the rear of his home. The house sits in a cul-de-sac and the house was built in 1972. The existing structure sits over the 25 foot setback. The houses on each side of the subject house also sit over the 25 foot setback. The proposed office/study area will be over the 25 foot setback but not over the 15 foot easement.

Mr. White asked Mr. Dawson if he or the owner had discussed this proposal with any of the neighbors. Mr. Dawson stated that he has not and he does not think the owners have either.

Interested Parties:

Heidi Hays, 2139 East 48th Place, Tulsa, OK; stated she lives directly behind the subject property. From her bedroom, dining room and living room she can see part of the house and the roofline. Her concern is security for the community and the neighborhood, and privacy. She feels the neighbor would be encroaching closer by having the addition and there would be a noise issue. All the houses are very close already and if this is allowed it will be even closer. The rules are in effect for a reason.

Earl Bachenberg, 2143 East 48th Place, Tulsa, OK; stated his concerns are security and privacy. His bedroom faces the subject house and if the proposed addition is above the existing wall it will invade his privacy.

Mr. Van De Wiele asked Mr. Bachenberg how tall the wall is. Mr. Bachenberg guessed that it is about eight feet tall.

Mr. Van De Wiele asked Mr. Bachenberg if the house behind was a two story house. Mr. Bachenberg stated that it is a one story house.

Cynthia Stewart, 2147 East 48th Place, Tulsa, OK; stated she lives to the east of Mr. Bachenberg. Ms. Stewart stated she is here today representing the Home Owners Association. She understands there is already encroachment from the existing property, however when the neighborhood was built and the walls were erected it was intended to make the neighborhood very secure. Part of the reason for the walls and the setbacks is so that people cannot allow existing structures to come over the walls. The neighborhood is currently very secure and has only one point of ingress and egress. The easements are maintained and are very important aesthetically, but the one thing that matters the most to the homeowners is the continued encroachment on

what seems to be a stable environment of setbacks. The neighbors are concerned about establishing a precedent and object to any encroachment.

Ms. Hayes came forward and stated the reason she purchased her house in Bolewood is because of privacy. Mr. Van De Wiele asked Ms. Hayes how much of the house she could see of the subject house. Ms. Hayes stated she is not for sure but she knows she can see quite a bit of it. Ms. Hayes stated that she believes this request is not appropriate for the neighborhood.

Rebuttal:

Matt Dawson came forward.

Mr. Van De Wiele asked Mr. Dawson to state his hardship for the Variance request. Mr. Dawson stated the hardship is that the Variance is the applicant has had knee replacement surgery and will be using the room for rehabilitation. There will be exercise equipment in the room even though it is called an office or study.

Mr. Dawson stated that his client has the same security concerns as his neighbors. The client has a locking gate in front of their house that must be activated by the homeowner before anyone can enter the property. The houses in the neighborhood are only 10 or 15 feet apart so he doesn't understand the privacy issues because the addition will not encroach upon anyone's privacy.

Comments and Questions:

Mr. White stated that he understands why the applicant would like to build the addition. He has difficulty with the fact that there is not an established hardship to satisfy the Code. In regards to the privacy issue, when there are large houses on lots that are not that large placing the houses that close together there will be a lot of privacy lost. Security is a false concept at times. The lack of a sufficient, qualified hardship is the reason he will not support the application.

Mr. Flanagan stated he agrees with Mr. White, there is no valid hardship so he cannot support the request.

Ms. Back stated that she cannot find a hardship in this case.

Mr. Van De Wiele stated that he has the same hardship issues. Houses that sit at an angle on lots help cause these problems. The fact that the addition is going beyond the corner of the house and it is attaching to what looks like another substantially sized addition he has an issue with the further extending the encroachment of the non-conformity.

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 **DENY** the request for a Variance to

reduce the rear setback to 15 feet for an addition to a non-conforming structure (Section 80.030-D) for a lack of a hardship; for the following property:

PT LTS 3 & 4 BG 50 S OF NWC LT 3 TH S 62.4 SE 38.7 S 5.5 SE 51.25 NELY ON CRV 50 NW 54.9 TH W 101 TO BEG BLK 1, SWAN PARK, City of Tulsa, Tulsa County, State of Oklahoma

22188—Wallace Engineering – Jim Beach

Action Requested:

Variance of the required street frontage from 50 feet to 37.5 feet; Variance to reduce the street setback from 10 feet to 4.7 feet in the OM District (Section 15.030-A, Table 15-3). **LOCATION:** 1408 South Cheyenne Avenue West **(CD 4)**

Ms. Back recused and left the meeting at 3:06 P.M.

Presentation:

Jim Beach, Wallace Engineering, 200 East M. B. Brady Street, Tulsa, OK; stated this request is for six townhouses that will be located along Cheyenne Avenue around 14th Street. The entire subject site is currently parking. In the OM District in regards to street frontage and lot width applies to office use and refers to the RM-2 zoning for guidance but in the RM-2 District townhouses are allowed 20 feet. The current 50 foot wide lots are being reconfigured to 37.5 foot wide lots, which is still 17.5 feet wider than what would be permitted in the RM-2 District. The hardship would be that fact that the Code does not provide an appropriate lot width or street frontage for a use that is anticipated to be by right. The reason for the front setback request is because the lots are not as deep as most lots; the subject lots are 128 feet deep. Each of the proposed units will be accessed from the alley on the west side and that is where the garages are to be located with an 18'-6" driveway to allow for off-street parking. The garages and the driveway on the west side is forcing the units to be as far to the east as shown on the plan.

Mr. White asked Mr. Beach if the garages would be for two cars. Mr. Beach answered affirmatively.

Interested Parties:

Patrick Fox, Fox Allen Realty, 624 South Boston, Tulsa, OK; stated the existing building on the subject property is a garage that has three or four doors.

Comments and Questions:

None.

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 Variance of the required street frontage from 50 feet to 37.5 feet; Variance to reduce the street setback from 10 feet to 4.7 feet in the OM District (Section 15.030-A, Table 15-3), subject to conceptual plan 16.24. The OM District has a minimum lot width that accommodates office uses but does not provide anything for residential consideration. The 37’-6” will satisfy the RM-2 regulation. The street setback to 4.7 feet is necessary to make a marketable sized structure because the 128 foot deep lots do not have enough depth to accommodate a 10 foot setback and have two car garages plus adequate driveways in the rear; the access from the rear being off a 20 foot alleyway. 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:

N30 LT 17 & ALL LTS 18 THRU 21 BLK 2, CARLTON PLACE, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Back re-entered the meeting at 3:19 P.M.

22189—Mike Rice

Action Requested:

Special Exception to permit storage/warehouse use in the CS District (Section 15.020, Table 15-2). **LOCATION:** 110 South 193rd Avenue East **(CD 6)**

Presentation:

Mike Rice, 2108 North Willow Avenue, Broken Arrow, OK; stated the property to be purchased and used for storage is for his business because he wants to be able move the operations into Tulsa. The existing building was formerly a Family Dollar Store and it will not change on the outside except for a garage door that will be on the south side of the building. His business is a restoration company and they take belongings out of the damaged house and clean them then store them while the restoration is being performed.

Mr. Van De Wiele asked Mr. Rice if this would be accessible to the public. Mr. Rice stated that his employees will be the only ones at the building.

Mr. White asked Mr. Rice if the victims of flood, fire or whatever caused the need for a restoration would be coming to the building. Mr. Rice stated that it would be only the company vehicles and employees.

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 permit storage/warehouse use in the CS District (Section 15.020, Table 15-2)m subject to “as built”. 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:

PRT LT 2 BEG 378N & 10W SECR LT 2 TH W165 N155 E165 S155 POB BLK 1,ROLLING HILLS CTR ADDN AMD, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Mr. Van De Wiele welcomed Ms. Amy Ulmer to the Board of Adjustment, and recognized that today was Ms. Ulmer's first solo meeting with the Board.

There being no further business, the meeting adjourned at 3:25 p.m.

Date approved:



2/14/17

Chair