BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1177
Tuesday, February 14, 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	Miller	Blank, Legal
Flanagan, Secretary		Moye	
Back		Sparger	
Bond		Ulmer	

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, February 9, 2017, at 9:01 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

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MINUTES

On **MOTION** of **BACK,** the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the **Minutes** of the January 10, 2017 Board of Adjustment meeting (No. 1175).

On **MOTION** of **BACK,** the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the **Minutes** of the January 24, 2017 Board of Adjustment meeting (No. 1176).

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UNFINISHED BUSINESS

22190—Tom Neal

Action Requested:
Variance of the required street setback from East 101st Street from 35 feet to 20 feet; Variance of the required street setback from South Joplin Avenue from 15 feet to 5 feet (Section 5.030); Variance of the allowable height of detached accessory buildings from 10 feet to 11 feet to the top of the top plate (Section 90.90-C). **LOCATION:** 5910 East 100th Place South **(CD 8)**

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The applicant has withdrawn the application.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 20 BLK 3, SUN MEADOW, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

22204—Jack Arnold

Action Requested:
Variance to reduce the street setback from 35 feet to 30 feet (Section 5.030, Table 5-3). **LOCATION:** 2641 East 65th Place South **(CD 2)**

Presentation:
The applicant has requested a continuance to March 14, 2017 to allow additional time to meet with the neighbors.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **CONTINUE** the request for a Variance to reduce the street setback from 35 feet to 30 feet (Section 5.030, Table 5-3) to the March 14, 2017 Board of Adjustment meeting; for the following property:

LOT-2-BLK-1, TIMBERLANE ROAD ESTATES, City of Tulsa, Tulsa County, State of Oklahoma

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Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present at this meeting, and if an applicant or an interested party would like to postpone his or her hearing until the next meeting he or she could do so. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from three board members to constitute a majority and if two board members voted no today the application would be denied. Mr. Van De Wiele 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

22167—Lee Wade

Action Requested:
Special Exception to permit a duplex in the CH District (Section 15.020). **LOCATION:** North of the NE/c of East 8th Street South and South Peoria Avenue East **(CD 4)**

Presentation:
Lee Wade, 5132 East 30th Place, Tulsa, OK; stated the application is for a duplex which is to be considered as a primary residence in the CH District. The structure is existing and is currently being used for storage. Mr. Wade believes the structure was originally a residence. Mr. Wade stated that he understands there had been an issue from an interested party regarding a curb cut but there is no request for a curb cut because there are currently two entries into the property.

Mr. Van De Wiele asked Mr. Wade where the second entrance is located. Mr. Wade stated the first entry is located in front of the subject property and the second entry is south of the Savoy Apartments which is at 631 South Peoria.

Mr. Van De Wiele asked Mr. Wade if he owned both the lots. Mr. Wade answered affirmatively and stated that he owns five lots total.

Mr. Van De Wiele asked staff if the curb cut issue is something the Board needed to deal with or if it was a permit issue. Ms. Miller stated that it is nothing to be handled by the Board and the curb cut issue will be addressed when it goes through the permitting process.

Ms. Moye stated that when she visited the subject site about a month ago it appeared that the existing curb cut had recently been paved. Mr. Wade stated that it was part of the City's condition listed on the Letter of Deficiency, so at that time he paved the area.

Mr. Van De Wiele asked Mr. Wade about the lot combination in the staff comments. Mr. Wade stated that currently Lots 12 through 15 are considered one parcel and with the approval of today's Special Exception request he will submit a lot split application and then combine Lots 14 and 15.

Mr. Wade stated that he had met with the Pearl District group and the issue of the alley was discussed. The issue with opening up to the alley is there so much transient foot traffic that it would allow easy access to the subject property. Currently there is a privacy fence in place and the transients have kicked in the pickets to access the property and break into vehicles. He would rather not open that up to prevent any future problems that may occur.

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, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the request for a Special Exception to permit a duplex in the CH District (Section 15.020), subject to conceptual plan submitted today, February 14, 2017, tagged as revised 3.12. 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 1, EAST LYNN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22192—Dennis Tuthill

Action Requested:
Variance to permit the total combined floor area of detached accessory buildings to exceed 750 square feet (Section 45.030-A). **LOCATION:** 8306 East 14th Street South **(CD 5)**

Presentation:
Dennis Tuthill, 8306 East 14th, Tulsa, OK; stated the building is for the storage of his lawn equipment and other items because he has no garage.

Mr. Van De Wiele asked Mr. Tuthill if he had any communication with his neighbors regarding the proposed accessory building. Mr. Tuthill stated that all he has heard are positive comments about the building.

Ms. Back asked Mr. Tuthill if he was getting rid of the existing shed. Mr. Tuthill answered affirmatively. Ms. Back stated there is another building or a pole barn. Mr. Tuthill stated that it is actually a carport. Ms. Back stated that it would still be counted in the square footage and she asked Mr. Tuthill if he knew the square footage of the carport. Mr. Tuthill estimated that it was a 16' x 18' metal carport and he would remove it also if need be.

Mr. Van De Wiele asked staff if the square footage of a carport would count against the square footage request. Ms. Moye stated that she spoke with the Permit Department about the proposed accessory building and it was stated that the existing shed is counted toward the square footage and not the carport.

Mr. Van De Wiele asked Ms. Moye if there was a specific square footage request on the notice. Ms. Moye stated the notice is what you see on the request.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the request for a Variance to permit the total combined floor area of detached accessory buildings to exceed 750 square feet (Section 45.030-A), subject to conceptual plans 5.15, 5.16, 5.17, 5.18, 5.19 and 5.20. The approval includes the existing carport, storage shed and pole barn. 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 6 BLK 9 LESS S25 FOR RD, FOREST ACRES, City of Tulsa, Tulsa County, State of Oklahoma

22196—Shane Hood

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 (Section 40.050). **LOCATION:** West of the SW/c of East 1st Street South and South Elgin Avenue East **(CD 4)**

Presentation:
Shane Hood, 815 East 3rd Street, Tulsa, OK; no formal presentation was made by the applicant and was available for any questions.

Mr. Van De Wiele stated that Board is in receipt of the applicant's spacing verification as shown on 6.6.

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, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) the applicant has submitted a map indicating the required spacing radius of 300 feet from the perimeter subject site, the

attached map also list surrounding uses within the 300 foot radius. There do not appear to be any public parks, churches, or schools within 300 feet of the proposed bar. There is not an R District within 50 feet the subject property. The verification is executed through a public hearing to ensure that surrounding property owners are notified and have the ability to provide information to the Board relevant to the verification. The Board must find that the proposed bar meets or does not meet the spacing requirement. 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:

W25 E75 LT 1 BLK 86, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

22197—George Wilson

Action Requested:
Amendment of the previously approved site plan in BOA-20368 to permit addition of a storage building. **LOCATION:** 16933 East 21st Street South **(CD 6)**

Presentation:
George Wilson, 6433 South 45th West Avenue, Tulsa, OK; stated the request is for a small 384 square foot storage building. The building was not on the original site plan thus the request for the amendment.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the request for an Amendment of the previously approved site plan in BOA-20368 to permit addition of a storage building, subject to conceptual plan 7.12. The Board finds that the requested Amendment will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 1 BLK 1 TAM-BAO BUDDHIST TEMPLE ADDN & N333 S663 E660SW & BEG 663 E660 SW & BEG 663N SECR SE TH W660 N462 E660 S462 POB SEC 11 19 14 12.045ACS, TAM-BAO BUDDHIST TEMPLE, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Miller left the meeting at 1:31 P.M.
Mr. Dwayne Wilkerson entered the meeting at 1:31 P.M.

22201—Eric Enyart

Action Requested:
Special Exception to permit alternative compliance parking ratios to allow an Assembly and Entertainment Indoor/Outdoor facility (sports and performance center) (Section 55.050-K). **LOCATION:** East of the NE/c West 81st Street South & South Elwood Avenue West **(CD 2)**

Presentation:
Ricky Jones, Tanner Consulting, 5323 South Lewis Avenue, Tulsa, OK; stated in July the Board of Adjustment approved a Special Exception to allow a unique multi-use sports complex on the subject property of approximately 60 acres located north of Riverside Airport. There is a large indoor building, ten full size soccer facilities, one Lacrosse field, four junior soccer fields and eight sand volley ball courts. All of these uses total a gross parking requirement of 1,501 parking spaces. This is a private facility and not a public facility. All along the west side, south side and north side there is parking for a total of 1,089 parking spaces. There have been several meetings with the airport authority and the City of Tulsa and a new connection road from the north end of the property all the way to the sanitary plant, so access can be from 71st or 81st Streets. At some time in the future 81st Street will be widened but for now it is under built.

Mr. Van De Wiele asked Mr. Jones if the proposed connection road is a done deal. Mr. Jones stated that it is a done deal and under design and funded. It is the goal to have the road in place when the indoor facility opens but there are public bidding issues to go through.

Mr. Van De Wiele asked what will be in the building. Mr. Jones stated there are two indoor soccer fields, a sports performance center, volley ball courts, and it will be a multi-use building.

Mr. Jones stated that not all of these uses will come into play at the same time. This is a private facility and there will be more than enough parking to meet the demands of the complex and will meet what the Transportation Engineers think the parking requirements should be. There is also an overflow facility about 1-1/2 miles south in Jenks so when the proposed building parking becomes crowded there will be a shuttle for the teams from the overflow.

Mr. Jones stated there are no plans to park on the Airport Authority property. The proposed facility will be fenced, chained at night, and will have security patrols.

Mr. Van De Wiele stated that his concern is the access road to the north because 81st Street is under sized, under designed and has flood issues. Mr. Van De Wiele asked if the clients are going to make 71st Street the front door for the proposed facility or will access from 81st Street be restricted. Mr. Jones stated that there will be no restrictions. The flyers that are sent out to the teams and the signage that will be in place will direct traffic to the north. It is very hard to turn left to go west on 71st Street and the sewer plant does not want the public using the sewer plant road so traffic will be directed and told where to park, and told where the ingress and egress points are located.

Mr. Jones stated that his client is excited about this project because it is taking land that is unusable in the flood plain and turning into a good use.

Interested Parties:

Johnnie Egbert, 7817 South Elwood, Tulsa, OK; stated she came to the first hearing and her concerns are becoming land locked and still has concerns about being land locked. Ms. Egbert stated her property is on the west side and abuts the Titan property. She is in favor of the project because it will be wonderful for the kids and is good for the value of her land. Ms. Egbert stated that she would like an easement so she will not be land locked.

Mr. Van De Wiele stated that he is confused on how Ms. Egbert's property will be land locked. Ms. Egbert stated that she has access only to Elwood and she would like to have an easement to access 71st Street.

Mr. Van De Wiele stated that based on the applicant's site plan it appears that Ms. Egbert's property may adjoin the applicant's property but it would be certainly rare and odd for Ms. Egbert to have a driveway across the applicant's parking lot to have access. Mr. Van De Wiele stated that he does not see how Ms. Egbert would become land locked having access onto Elwood. An access easement is a private business arrangement between two adjoining land owners, and he does not think the Board has the authority to make the applicant's parking request conditioned upon a granted easement. If Ms. Egbert would like to negotiate an easement with the applicant she certainly is entitled to do so.

Mr. Jones came forward and stated that they have spoke with the abutting property owners and the Board is correct in the easement being a private issue. The applicant has split off a five acre tract in the back and they will continue to talk with the neighbors.

Mr. Van De Wiele stated that he spent a lot of his weekends looking for a parking spot at a public facility because two of his three children are in soccer and Mohawk Park facility is grossly under parked. Based on the application, while they have many fields the biggest load for parking will be a full weekend soccer tournament. He cannot

imagine there will be a lot of volley ball use or a basketball tournament going on at the same time. He believes that 1,500 parking spaces for this facility would be a gross excess of parking and pavement, and 110 spaces per field seems to be sufficient. He believes the biggest issue will be getting all the cars in and out of the area.

Mr. Bond stated that when the Board looks at the intent and the spirit of the Code, since he has been on the Board they have looked at the nature of the establishment and how long people are at the site, and based on the use he believes this qualifies because there is more parking here than at other soccer complexes.

Mr. Van De Wiele asked staff if the road to the north is a done deal. Mr. Wilkerson stated that there has been public money allocated so he is confident the road will be installed.

Comments and Questions:
None.

Board Action:
On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the request for a Special Exception to permit alternative compliance parking ratios to allow an Assembly and Entertainment Indoor/Outdoor facility (sports and performance center) (Section 55.050-K), subject to the conceptual plan submitted today, February 14, 2017. The Board determines that the other allowed parking reduction alternatives of Section 55.050 are infeasible or do not apply to the proposed project. The Board determines that the reduced parking ratios proposed are not likely to cause material adverse impacts on traffic circulation and safety or on the general welfare of property owners and residents in the surrounding area. 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:

W/2 SE SW SEC 12 18 12; NE SW LYING SW RR ROW SEC 12 18 12 39.85AC, JENKS NORTHWEST ELEMENTARY, City of Tulsa, Tulsa County, State of Oklahoma

22203—AAB Engineering – Alan Betchan

Action Requested:
Variance of the open space requirement in an RS-3 District from 4,000 square feet to 3,250 square feet (Section 5.030). **LOCATION:** East of the NE/c of South Quincy Avenue East and East 38th Street South **(CD 9)**

Presentation:

Alan Betchan, AAB Engineering, 200 North McKinley, Sand Springs, OK; stated a few months ago the applicant was approved for a Variance for a lot split taking the standard 60 foot lot width to 52'-6". This reduction is typical of what is happening in this area, there are larger lots which are north of 38th Street and east of Peoria that exceed the RS-3 original zoning. The development pattern that has progressed and is still ongoing has been the splitting of lots causing a revitalization and redevelopment of the area. Since the initial request the eastern half of the lot has been constructed on and the western half has a user that needs a single story layout and as such does not meet the RS-3 open space requirements. The request is for the minimum needed to build the house because it becomes very difficult to reach the square footages of the current market of homes since this is a proposed single story house.

Mr. Van De Wiele asked Mr. Betchan how the proposed house compares to the four houses to the north from a footprint stand point. Mr. Betchan believes it will be comparable. The proposed house is a different style of house but it is typical as far as the rear yard's space.

Mr. Van De Wiele asked Mr. Betchan how this house is comparable to the other houses in regards to maintaining the front building line on the same street. Mr. Betchan stated the front building lines will be maintained and there is no exception.

Mr. Van De Wiele asked Mr. Betchan to explain the hardship in this request. Mr. Betchan stated the hardship is the size and the width of the lot. It is less than the 60 foot prescribed to the RS-3 zoning so the lot has an open space requirement that is associated with 4,000 square feet. In midtown infill land is such a commodity development has to be infill so the houses are being tailored which bumps into the edges of what can be fit onto a lot. For a single story house it is hard to reach a financially viable house.

Mr. Bond asked Mr. Betchan if the focus was on the back yard of the proposed house. Mr. Betchan answered affirmatively.

Interested Parties:

Peggy Caudle, 1416-C East 38th Street, Tulsa, OK; stated she lives across the street from the subject property. She attended the meeting when the applicant requested a lot split and protested that request because it was an oversized lot but it was not large enough for two houses. The house that was built on the first lot is a two-story with a two-car garage but has no front door. There is a lot said about protecting the integrity of neighborhoods and she understands that the Brookside neighborhoods are popular and everyone wants to live there but let's find a house plan that fits the lot.

Mr. Bond asked Ms. Caudle if she thinks the proposed house will be injurious to the neighborhood. Ms. Caudle stated no and she does not have a problem with tearing down an old house and building a new one, but she does have a problem when the new houses but up against one another. She knows the houses on 37th Place are close and have no back yard, but as long as there is a nice driveway to park in because street

parking is heavy particularly during events. She does not feel that the proposed house is injurious but she feels it is taking advantage.

Herb Beattie, 3474 South Zunis Avenue, Tulsa, OK; stated he represents the Brookside Neighborhood Association. The Brookside Neighborhood Association represents the home owners between 31st and Skelly Drive and Lewis Avenue and the river. It is a very diverse neighborhood. The residents are very concerned about the cumulative loss of trees and the open space in Brookside. Losing the trees and the permeable open space and the neighborhood is subject to more severe problems. Mr. Beattie stated the applicant needs a hardship, and he does not understand how an area development pattern is a hardship. Mr. Beattie asked if there had been a precedent set for this action.

Mr. Van De Wiele stated that each case is a stand-alone case. One does not create precedent for the next, but certainly the Board does look at the trend of the building pattern in the neighborhood. There is a trend for the lot width in that part of Brookside.

Mr. Beattie stated the neighbors are very concerned about establishing a precedent or continuing a pattern like letting developers build a bigger house and eliminate the open space, the trees and the permeable ground which will lead to future flooding.

Mr. Flanagan asked Mr. Beattie if he thought the one story house would be more in harmony with the neighborhood than a two-story house. Mr. Beattie stated a one story house would be in harmony with the neighborhood but not a bigger footprint. Mr. Flanagan asked Mr. Beattie if he thought it would be more beneficial to have a larger footprint on the lot that is one story or would it be better to have a smaller footprint on the lot that is two-story. Mr. Beattie stated that if he had to make a choice he would prefer the two-story house because it is consistent with the Zoning Code. Breaking the Zoning Code sets a precedent which increases the flooding and the residents do not want that to happen.

Mr. Bond asked Mr. Beattie if he was speaking about the removal of large existing trees on the subject property. Mr. Beattie stated the land owners have the right to remove their trees but trees can be replanted.

Ms. Caudle came forward and stated that there is only one other house on the block that is a two-story house. When the first house was built there were four large trees taken down and it is all driveway with a very tiny green space so there will not be another tree planted there. She feels the same thing will happen with the proposed house. As for Mr. Flanagan's question about which house would they rather have, she does not think that is an issue. The applicant can build in the space that is there, either a one-story that fits the lot or a two-story. The neighbors do not have to choose. The issue is, that the applicant stay within the approved open space guidelines and build a one story house that fits the lot or build a two-story house that fits the lot.

Rebuttal:

Alan Betchan came forward and stated that some of the misconception is that if the applicant comes forward with the two-story plan and do not apply the Variance it will not change the distance that offsets the property line prescribed by the Code. The five and five will still be the same. What is being seen from the front as a person drives through the neighborhood is the same. The reality is that on a 52 foot lot or even a 60 foot lot a builder will build to the edges, there will still be a five and five regardless. The applicant would like to build a single story plan. The applicant would like to conform to the front yard requirements. The applicant would like conform, but because of the lot width the purely prescribed zoning regulations cannot be met. The lot width of 52'-6" has already been reduced from what the Zoning Code allows so we are applying an open space that is normally associated with a 60 foot lot. This is not a question of is the open space appropriate, but what was brought before the Board in a hardship is the open space isn't appropriate for this width of lot that is being presented today. The Code intentionally associates an open space with a width being mindful of it being possible to build a single story house on the associated lot width. That is what he is here attempting to reconcile today.

Mr. Van De Wiele asked staff if there were any reports on the properties to the north of the subject property. Ms. Moye stated that she did not find where any of the properties had received a Variance of the open space requirements.

Mr. Van De Wiele asked Mr. Betchan if the developer building the house is the same developer that did the lot split. Mr. Betchan answered affirmatively. The subject property is now under contract for a custom construction specific to a single story house.

Mr. Bond asked Mr. Betchan if the houses on the corner of 38th and Quincy were new construction or original houses. Mr. Betchan stated they are not as new but they are split. It is a unique area in that there has been redevelopment that has happened with historic splits and redevelopment that has happened in the area over the years. There is a mix and it is eclectic.

Comments and Questions:

Mr. Flanagan stated that the Board does look at each case individually but he thinks a contract to build a custom house based on the potential home owner wanting only a single story house is not a hardship. He would not support this request and believes the hardship is self imposed.

Ms. Back agreed with Mr. Flanagan. She is having a hard time supporting a 4,000 square foot house; if a person needs a single story house that does not dictate the need for 4,000 square feet. Ms. Back stated that she is having a difficult time finding a hardship.

Mr. Bond stated that in looking at the aerial photos of the neighborhood, it appears that there are numerous houses that are well within the five foot area. The City has reduced the area required between houses. Mr. Van De Wiele stated that it is not necessarily

just the five foot, what is really being discussed is how deep the house is. Mr. Bond stated that it is a one story house that will be taking the back yard, as opposed to taking the front yard or the side yards, so he does not necessarily have a problem with this request.

Mr. Van De Wiele stated that it is frustrating to tell people, and it is frustrating to hear, that the Board of Adjustment is not tasked with or even consider stormwater water runoff because it is considered by other departments of the City government and is part of the permitting process. If the applicant wanted to pave the lot corner to corner they would not be able to do it, not because of the lack of a grant of a Variance, but likely when it reached that part of the review process it would be denied. It does not mean that stormwater runoff is not a valid concern. His concern is that this part of Brookside was platted with a lot of smaller sized lots than would currently meet the minimum for RS-3 zoning. Because of that the Board has granted Variances in the past. When these lots were platted it was because there were small houses on a 52 foot wide lot. From the hardship stand point the Board has used the Code itself as a hardship, and he would be curious to know what happened across the back fence line, because those houses do not look terribly unlike what is being requested today. He does not think that 17 more feet in the back is going to be injurious. If this were an original 52 foot wide lot he would not have a problem with the request, but he does have a concern about the financial hardship, but the developer created the 52 foot wide lot then wants to rely on that as the hardship it is self imposed.

Board Action:
On **MOTION** of **BACK**, the Board voted 2-2-0 (Back, Flanagan "aye"; Bond, Van De Wiele "nay"; no "abstentions"; White absent) to **DENY** the request for a Variance of the open space requirement in an RS-3 District from 4,000 square feet to 3,250 square feet (Section 5.030), finding there is no hardship or that it is a self imposed hardship; for the following property:

LT 8 BLK 4, LEOKI PLACE, City of Tulsa, Tulsa County, State of Oklahoma

MOTION FAILED

On **MOTION** of **BOND**, the Board voted 2-2-0 (Bond, Van De Wiele "aye"; Back, Flanagan "nay"; no "abstentions"; White absent) to **APPROVE** the request for a Variance of the open space requirement in an RS-3 District from 4,000 square feet to 3,250 square feet (Section 5.030); for the following property:

LT 8 BLK 4, LEOKI PLACE, City of Tulsa, Tulsa County, State of Oklahoma

MOTION FAILED

22206—Home Creations

Action Requested:
Variance to permit a 9 foot high masonry wall within the street right-of-way; Special Exception to permit a fence and/or wall height greater than 4 feet within the required street setback of East 41st Street South (Section 45.080-A). **LOCATION:** 14815 East 41st Street South **(CD 6)**

Presentation:
Richard Conrad, Richard Conrad & Associates, 5711 East 71st Street, Tulsa, OK; stated he represents Home Creations which is the developer of Battle Creek Park. The application for the Variance is to allow two nine foot masonry walls that will frame the entrance on 41st Street. This is a straight zoning RS-3 subdivision. The nine foot walls are outside the of the 30 foot sight line and outside of the public right-of-way. The six foot tall privacy fence is wood with a cap on it and it is a privacy fence for Lots 1, 2 and 3 west of the entrance.

Mr. Van De Wiele asked Mr. Conrad if the masonry wall was a decorative entrance to the subdivision. Mr. Conrad answered affirmatively. Mr. Van De Wiele asked Mr. Conrad if the six foot privacy fence is for the back yards of Lots 1, 2 and 3. Mr. Conrad answered affirmatively.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the request for a Variance to permit a 9 foot high masonry wall within the street right-of-way; Special Exception to permit a fence and/or wall height greater than 4 feet within the required street setback of East 41st Street South (Section 45.080-A), subject to conceptual plans 11.6, 11.7, 11.8 and 11.9. 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. In granting the Variance 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:

A part of the South half of the of Section 22, Township 19 North, Range 14 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma according to the Government Survey Thereof.
More particularly described as follows:
Commencing at the Southeast corner of the Southwest Quarter (SW/4) of said Section 22: Thence N 89°47'11" W; along the South line of said Southwest Quarter (SW/4), a distance of 729.24 ft. to a point that is 1907.45 ft. from the Southwest corner and said Southwest Quarter (SW/4) and the Point of Beginning. Thence continuing N 89°47'11" W along said South lot line a distance of 999.45 ft.; thence N 00°00'28" W parallel with the west line of said Southwest Quarter (SW/4), a distance of 1058.06; thence S 89°47'48"E parallel with the north line of said Southwest Quarter (SW/4), a distance of 850.00 ft.; thence S 00°12'12" W a distance of 125.00 ft.; thence S 89°47'47" E a distance of 29.91 ft.; thence S 00°00'28" E, parallel with the west line of said Southwest Quarter (SW/4), a distance of 748.22 ft.; thence S 89°47'11" E a distance of 120.00 ft.; thence S 00°00'28" E a distance of 185.00 ft. to a Point of the South line of said Southwest Quarter (SW/4) and the Point of Beginning. Said tract of land containing 949,066.78 SF or 21.788 Acres, City of Tulsa, Tulsa County, State of Oklahoma

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OTHER BUSINESS

None.

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NEW BUSINESS

None.

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BOARD MEMBER COMMENTS

None.

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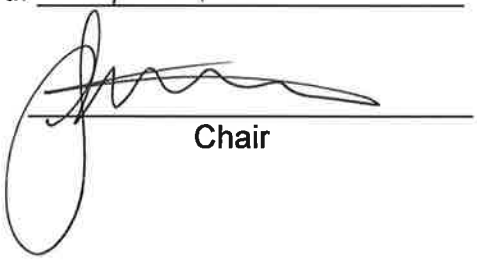
There being no further business, the meeting adjourned at 2:42 p.m.

Date approved: 2/28/17



Chair