

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1184
Tuesday, May 23, 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 Bond Flanagan, Secretary Back	White, Vice Chair	Miller Moye Sparger Ulmer	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Friday, May 19, 2017, at 8:47 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 **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 May 9, 2017 Board of Adjustment meeting (No. 1183).

UNFINISHED BUSINESS

22232—Tulsa Rowing Club – River Parks Authority

Action Requested:

Variance to permit vinyl and/or aluminum siding as a building material; Variance to permit blank walls with no architectural detailing to exceed 35 feet in height and/or width (Section 20.050). **LOCATION:** 715 West 21st Street South (**CD 2**)

Presentation:

The application has been withdrawn by the applicant.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

LOCATED IN THE SOUTHERN HALF OF THE SOUTHEAST QUARTER (S/2 SE/4) OF SECTION 11, T-19-N, R-12-E, TULSA COUNTY, OKLAHOMA. BEGINNING AT THE INTERSECTING POINT OF THE WEST LINE OF GOVERNMENT LOT 11 AND THE NORTHERN EDGE OF AN EXISTING RIVERPARKS PARKING LOT (APPROXIMATELY 130 FEET NORTH OF THE SOUTHWEST CORNER OF GOVERNMENT LOT 11); THENCE DUE EAST A DISTANCE OF 74.29 FEET TO THE POINT OF BEGINNING; THENCE N34°58'09"W A DISTANCE OF 195.00 FEET; THENCE N55°01'51"E A DISTANCE OF 200.00 FEET; THENCE S34°58'09"E A DISTANCE OF 284.27 FEET; THENCE S52°35'52"W A DISTANCE OF 112.28 FEET; THENCE N46°44'46"W A DISTANCE OF 39.00 FEET; THENCE DUE WEST A DISTANCE OF 97.46 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING 52,108.4 SQ FT OR 1.2 ACRES MORE OR LESS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA.

NEW APPLICATIONS

22233—Crown Neon Signs – Gary Haynes

Action Requested:

Variance from the requirement that dynamic displays not be located within 200 feet of an R District; Variance from the requirement that dynamic displays not be located within 20 feet of the driving surface of a street (Section 60.100).

LOCATION: 465 South Sheridan Road East (CD 3)

Presentation:

The applicant has requested a continuance to June 13, 2017 because of additional relief needed.

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 **CONTINUE** the request for a Variance from the requirement that dynamic displays not be located within 200 feet of an R District; Variance from the requirement that dynamic displays not be located within 20 feet of the driving surface of a street (Section 60.100) to the June 13, 2017 Board of Adjustment meeting; for the following property:

W40 LT 9 ALL LT 10 & 11 BLK 4, SHERIDAN HILLS, City of Tulsa, Tulsa County, State of Oklahoma

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OTHER BUSINESS

22241—Encinos 3D Custom Products – Christian Ortiz

REFUND REQUEST

Action Requested:

Variance to reduce the separation requirement for a freestanding sign from an outdoor advertising sign from 30 feet to 20 feet (Section 60.040-B); Variance to increase the permitted sign display area to 907.75 square feet to allow two freestanding signs on a CS zoned lot not located in the freeway corridor.

LOCATION: 6100 South Sheridan Road East (**CD 9**)

Presentation:

The applicant was overcharged and is requesting a refund for \$75.00..

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 refund for \$75.00; for the following property:

PRT NE BEG NEC NE TH S250 W250 N250 E250 TO POB LESS BEG NEC NE TH S250 W50 N180 NW24.48 TO PT 73W & 55S NEC NE TH W177 N55 E250 POB SEC 3 18 13 .891AC, DEBORAH JEAN ADDN, DEBORAH JEAN ADDN RESUB L2 B1, City of Tulsa, Tulsa County, State of Oklahoma

22242—Dewberry – Phillip Condley

REFUND REQUEST:

Action Requested:

Variance to permit 884 square feet of sign display area to permit 4 signs along Southwest Boulevard; Variance to permit 738 square feet of sign display area to permit 5 signs along West 17th Street South; Variance to permit 6 wall signs with a total of 937 square feet sign display area on the north elevation with no street frontage (Section 60.060). **LOCATION:** NE/c of Southwest Boulevard and West 17th Street South **(CD 2)**

Presentation:

The applicant was over charged for two signs that were not needed and requests a refund of \$250.00.

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 refund for \$250.00; for the following property:

ALL BLK 5 & N35 VAC ST ADJ ON S BETWEEN RR R/W & JACKSON AVE, RIVERVIEW PARK SECOND ADDN RESUB, WEST TULSA 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. Mr. White is absent today for a personal health related matter. Typically in these situations the Board would entertain requests for continuances, but based on the situation involved this is a situation that will likely not change for another meeting or two. As such, Mr. Van De Wiele stated he will

entertain anybody's request for a continuance but in order to get through the agenda items he personally will not be supportive of a continuation request for that reason. 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.

UNFINISHED BUSINESS

22213—A-MAX Sign Company

Action Requested:

Variance to increase the permitted display surface area from 70.5 to 88.7 square feet; Variance to allow for a freestanding sign with a dynamic display in the OL District (Section 60.060-C). **LOCATION:** 4520 South Harvard Avenue East (CD 9)

Presentation:

John Moody, 6004 South Marion Avenue, Tulsa, OK; stated he has been retained by Dr. Harrel and the sign company. As expressed at the previous meeting, the Board has expressed a concern about the hardship for the Variance and he has visited the subject sign to determine what made the sign appear as it does. Mr. Moody believes there is a hardship in this case. In order to meet the requirements of the Code Dr. Harrel would need to acquire additional property and he cannot acquire any more frontage that would allow him to increase his sign. The size of the lot and its frontage simply limits the amount of display surface area. That creates a problem because this is a multi-tenant sign and Dr. Harrel's patients, especially new patients, drive by several times attempting to locate the office. The sign is difficult to see because there a number of large trees on the property that shade the sign considerably which also makes it difficult to see. Mr. Moody explained the sign photos that he took and that are in the Board's agenda packet. Mr. Moody stated the pictures show that Dr. Harrel's simply is not visible.

Mr. Van De Wiele asked Mr. Moody if the St. John's sign in the area had received a Variance. Mr. Moody stated there have been Variances granted in the area; there are two on the east side and one on the west side. Mr. Van De Wiele stated that he does not see one in the case report of the surrounding properties.

Mr. Moody stated that when a person takes a photograph of the sign while standing in the parking lot, as the staff did for the case report, looking directly at the sign they look quite large and visible. That is simply because a person is looking directly at the sign

thus appearing larger in a photograph than what they actually are as opposed to a person driving on Harvard. A person driving a car is farther away from the sign and they are also moving so they don't get the same visual impact. Mr. Moody stated the hardship in this case is the fact that it is a corner lot, it cannot be expanded, there is a limit to the frontage so technically the hardship is the narrowness of the lot frontage. Mr. Moody stated that also there are large trees on the lot that Dr. Harrel cannot remove because they belong to the property owner and he cannot remove the other tenants from the sign to expand his sign using the existing display surface. Dr. Harrel has a substantial investment in this, has been at this location a number of years and goodwill located at that address. Mr. Moody stated that he thinks this is a reasonable request for an OL District and he thinks the application has merit.

Mr. Van De Wiele stated that it appears the subject sign is getting larger by adding the LED display and it does not look like Harrel Eye Care or any of the tenant panels are changing so what is going to go on the sign, because it appears the top of the sign is being cut off to insert the LED panel so what is going on the panel to solve the problem of the lack of identification. Mr. Moody stated LED signs are more visible because the brightness would alleviate some of the problem created by the shade of the trees. LED panel will have the type of vision care and products that Dr. Harrel offers.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Back stated that she would not be inclined to support a dynamic display in this neighborhood; there are not any in the area. She would lean toward making the sign larger to allow the tenants larger name plates but she is not leaning toward the dynamic display.

Mr. Bond stated that he cannot see a hardship in the case.

Mr. Flanagan agreed with Mr. Bond.

Mr. Van De Wiele stated that in looking at the sign there is a lot of dead space on the sign. He believes this is a sign design issue and he does not find a hardship.

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 **DENY** the request for a Variance to increase the permitted display surface area from 70.5 to 88.7 square feet; Variance to allow for a freestanding sign with a dynamic display in the OL District (Section 60.060-C) for a lack of hardship; for the following property:

N. 1/2 OF LT 2 BLK 3; S117.6 LT 1 BLK 3, VILLA GROVE PARK, City of Tulsa, Tulsa County, State of Oklahoma

22215—Leah Krautter

Action Requested:

Appeal of an Administrative Official's decision to classify the use of the property as a Bed & Breakfast under Section 35.050-G.1. **LOCATION:** 1315 East 19th Street South **(CD 4)**

Mr. Van De Wiele stated that he will have the City zoning official come forward first to present their findings, then the Board will hear from the applicant and then the interested parties. Mr. Van De Wiele asked the interested parties to avoid repeating comments so the case will proceed more quickly.

Presentation:

Traci Jenkins, City of Tulsa Working In Neighborhoods Inspector, 175 East 2nd Street, Tulsa, OK; stated WIN received a citizen complaint on February 9th that stated there was a bed and breakfast being operated out of the residential structure. WIN inspected the property and did internet research that revealed two rooms listed for rent on multiple websites; one is listed as Magnolia Suite at Magnolia House and the Peacock Room at Magnolia House. The research revealed customer reviews of their stays. WIN researched INCOG records which revealed a previous Board of Adjustment case for a Variance to allow a two-story detached accessory building which was approved with wording stating there would be no commercial bed and breakfast to be operated out of the structure. Ms. Jenkins stated she reviewed the zoning code which describes lodging as uses that provide temporary lodging for less than 30 days, where rents are charged by the day or by the week. Table 5-2 of the Zoning Code states that in an RS-3 zoned district a Special Exception is required by the Board of Adjustment in order to operate a bed and breakfast in that zoning district.

Mr. Van De Wiele asked Ms. Jenkins about the lodging distinction as opposed to buying a house in a residentially zoned neighborhood and rent it out for income, is it the fact that the house will be leased for six months or a year time frame places that outside of the lodging. Ms. Jenkins stated that was correct because it is rented for more than 30 days. Mr. Van De Wiele asked Ms. Jenkins if lodging was more akin to a hotel. Ms. Jenkins stated, "yes, if it is less than 30 days".

Ms. Jenkins stated on February 9th a notice was issued requiring the operator to receive a Special Exception from the Board of Adjustment in order to operate in the residential district. Ms. Jenkins stated that Tim Cartner received a telephone call from Attorney Lori Phillips on behalf of the property owner, and Mr. Cartner explained the Ordinances and the requirements of the Special Exception. Ms. Phillips e-mailed Mr. Cartner confirming the conversation and advised him that there would be a Special Exception filed to operate as a bed and breakfast pursuant to the Code. On March 2nd WIN received information that the owner had filed for an appeal of the notice.

Lori Phillips, 1408 South Denver Avenue, Tulsa, OK; stated that in regards to the e-mail she sent regarding Ms. Krautter filing for a Special Exception, Ms. Krautter changed her mind and decided to appeal. Ms. Phillips stated that in her opinion Ms. Krautter could do either or.

Ms. Phillips stated the bed and breakfast regulations are set out in Section 40.060, however, it must be first determined whether Ms. Krautter renting rooms through Airbnb is in fact a bed and breakfast subject to the regulations of Section 40.060. A bed and breakfast as defined in Section 35.05-G, Subsection 1, is a detached house in which the owner/operator offers overnight accommodations and meal services to overnight guests for compensation. Ms. Phillips stated there are two elements involved; the overnight compensation which Ms. Krautter does not dispute; and the second element is meal service to overnight guests. Ms. Phillips stated she could not locate a definition of meal services within the Ordinances so the question is what is a meal service. Attempting to define that she went to the City Ordinances and the City Ordinances governing health regulations created a joint City/County Health Department located at Title 17, Section 101 of the City Ordinances. Within Title 17, Section 400 of the Ordinance it incorporates the State Administrative Code which is 310, Column 257 which is published by the Oklahoma State Department of Health. In the Oklahoma Administrative Code it specifically exempts food service establishments being a bed and breakfast. It states a kitchen in a private home, such as a small family day care provider or a bed and breakfast operation that prepares and offers food to guests if the home is owner occupied the number of guest bedrooms do not exceed three, breakfast is the only meal offered. Pursuant to State regulations through the Health Department, which the City of Tulsa has adopted, it is exempt.

Mr. Van De Wiele asked Ms. Phillips to go over that again because there are two lawyers on the Board and he is lost. Ms. Phillips stated she has copies of the regulations for the Board. Mr. Van De Wiele asked Ms. Phillips what a bed and breakfast is exempt from. Ms. Phillips stated that it is exempt from Health Department regulations as a food service so long as the house is three bedrooms and it is owner occupied. Mr. Van De Wiele asked Ms. Phillips if she was saying the subject house is not a bed and breakfast. Ms. Phillips answered affirmatively.

Mr. Van De Wiele asked Ms. Phillips how she was relying on a bed and breakfast definition if she is before the Board saying the applicant is not a bed and breakfast. Ms. Phillips stated that she looked at the analysis and determined what is food service? Mr. Van De Wiele asked Ms. Phillips to repeat her analysis.

Ms. Phillips stated that according to the Health Department a bed and breakfast is exempt from Health Department regulations so there is no food service. They are not a food service based on Health Department regulations.

Ms. Phillips stated Ms. Krautter was cited for non-compliance and it alleges she operates a bed and breakfast. The critical class is meal service. What is a meal

service? According Merriam-Webster's unabridged dictionary, which is required to be used for an interpretation in Title 42, defines meal as a portion of food taken at a particular time to satisfy hunger or appetite and act at the time of eating a meal. Service is defined as the condition or occupation of a servant serving the master. So meal service would be the preparation of the food and the serving to a customer or someone who stays overnight. Ms. Phillips stated that Ms. Krautter does not provide meal service, but does provide a bed and snacks. Ms. Phillips stated she has witnesses here today to attest to that fact. In addition, Ms. Krautter occupies the home along with her children. Ms. Phillips stated that Ms. Krautter is exempt from regulation as stated in Section 45.100. In Section 45.100-D, it specifically states "non-residential uses that are expressly allowed in conjunction with residential uses, i.e., bed and breakfast uses, day family child care home, are not subject to home occupation regulations. Ms. Phillips stated the Title itself exempts Ms. Krautter specifically should this body determine she is in fact a bed and breakfast she is still exempt. There is no violation.

Mr. Bond stated that according to Section 35.050-G-2 Lodging, it states "Hotel/Motel – an establishment, other than a bed and breakfast or rural retreat, in which short-term lodging is offered for compensation."

Mr. Van De Wiele agreed with Mr. Bond. If Ms. Phillips client is agreeing that she admits to short term overnight lodging, there is no question to that. If this is just a meal service issue then that either puts the subject in the bed and breakfast box or outside the bed and breakfast box. Either way the subject is going to be under lodging definition. Ms. Phillips disagreed and stated she is arguing the bed and breakfast, and she has not researched or done an analysis on the other.

Mr. Van De Wiele asked Ms. Phillips if she admitted that her client rents rooms for less than 30 days. Ms. Phillips answered affirmatively. Mr. Van De Wiele stated that is the definition of lodging. Ms. Phillips stated she is not admitting or denying that is the definition of lodging.

Mr. Van De Wiele asked Ms. Phillips if this is not a bed and breakfast then what is it? Ms. Phillips stated she has stayed at an Airbnb and she did not receive breakfast and she was not served anything.

Mr. Van De Wiele stated that he went back and watched the last January 2016 or 2015 meeting on TGOV when the applicant had Tom Neal representing her, and at one point Mr. Neal stated that "Ms. Krautter had been entertaining the notion of a bed and breakfast. She is aware that is not a legal option without applying for a Special Exception". Ms. Phillips stated that she believes Ms. Krautter stated she would not run a bed and breakfast in an accessory building and she is not doing that. Ms. Krautter is not renting any rooms of the accessory building. Ms. Phillips stated the accessory building is not even completed, and the bed and breakfast is in her house which was not before the Board previously.

Mr. Van De Wiele stated that Mr. Flanagan had asked Ms. Krautter if she was going to rent it. At that time Mr. Neal stated that it will not be rented as a bed and breakfast, and Mr. Van De Wiele stated he understood that the discussion was primarily about the detached accessory building, and if Ms. Krautter were to try that Ms. Krautter would need to come before the Board with a Special Exception request. Mr. Neal then stated that they had assured Ms. Jones and Mr. Baker and everybody else that Ms. Krautter has repeatedly told the neighbors that it was her intention to follow the letter of the Code. Ms. Phillips stated that Ms. Krautter is not operating a bed and breakfast.

Mr. Van De Wiele asked Ms. Phillips if in room snacks and coffee was considered a meal. Ms. Phillips stated that is not a meal according to the Merriam-Webster unabridged most current dictionary.

Ms. Back stated that under the lodging definition under the subcategory of the commercial use category, Section 35.050-2 Lodging, "Uses that provide temporary lodging for less than 30 days where rents are charged by the day or by the week. Lodging uses sometimes provide food or entertainment, primarily to registered guests. A detached house in which the owner/operator offers overnight accommodations and meal service ...". Ms. Back stated that under the lodging definition it says "sometimes" so she is having a hard time with the meal service and it is not helping her.

Mr. Van De Wiele asked staff if there was no cereal or bacon and eggs served is that a bed and breakfast? Ms. Blank stated that it is her understanding the administrative official analyzed the Code going from the general category of Lodging and then listed typical examples, which would be the bed and breakfast, the hotel/motel, recreational vehicle park and campground, and rural retreat. The determining factor is the period of rental whether it is less than 30 days. Then there are different kinds of lodging uses contemplated by the Code.

Mr. Bond stated that he does not think that what, how much or the quality of a meal is eaten in a particular lodging is relevant, but it is plainly a hotel/motel environment. He does not think that the analysis can make the determination what level of an English muffin constitutes breakfast. He does not think the Board needs to do that.

Ms. Phillips stated that the interested parties will bring forth complaints that are really not relevant to the issue, which are things that happened in 2002, so she asks the Board limit those things. Ms. Phillips stated that she has approached Mr. Baker and asked if he would like to participate in an early settlement and he had no interest in it.

Interested Parties:

Thomas Baker, 1323 East 19th Street, Tulsa, OK; stated that he is the one that pointed out the history of disregard for public policy in the information which the applicant's advocate is speaking about. As for early settlement, he lives right next door and he is willing to talk about being informed about what is going on anytime. He recognizes that a lot of the history has no relevance in this issue he just wishes that they would go back to the request to build the accessory building in which several in the neighborhood were

told it was going to be used for a bed and breakfast. He does not place much confidence in what the applicant has to say. Mr. Baker stated that additional information has been submitted to the Board which supports the Administrative Official's decision to classify the use of the applicant's property as a bed and breakfast. The information provided in advance was to demonstrate a history of acting contrary to public policy and without consideration of the neighborhood. The applicant had prior notice and knowledge that operating a bed and breakfast could not be done without approval granted by the Board of Adjustment. The reviews and testimonials demonstrate stays in the facility and that there have been repeated overnight guests. The reviews and testimonials from people who have stayed there reflect that a meal service from a light fare in the room to a guest being invited to dinner with the family, so a meal service is provided. The facility has been commercially advertised as a bed and breakfast commercial operation. Mr. Baker stated that he understands these are the elements defining a bed and breakfast use, and those standards that support the classification as a bed and breakfast. Mr. Baker stated that he and the neighbors support the Administrative Official's decision to classify the use of the applicant's property as a bed and breakfast. He and the neighbors request the application be denied and the conduct cease.

Lydia Krautter, 1315 East 19th Street, Tulsa, OK; stated she is the daughter of Leah Krautter who owns the B & B. Ms. Krautter stated that there no breakfast served now. The one person who wrote the review regarding breakfast is her brother and breakfast was stopped after that. Ms. Krautter stated she helps with the bed and breakfast by setting flowers around the room. Ms. Krautter stated that people never stay more than 30 days and it is usually one or two nights. Ms. Krautter stated this helps her mother a lot, because she is divorced and it helps with tuition. Ms. Krautter stated that her mother is very good at running the bed and breakfast because she is very hospitable and has the gift of hospitality.

Mr. Bond asked Ms. Krautter who lives at the residence in question. Ms. Krautter stated that she, her three younger siblings and her mother live at the residence.

Mr. Van De Wiele asked Ms. Krautter if she considered it a bed and breakfast. Ms. Krautter answered no and stated it is a place where a person can stay the night in a prepared room and it is not a hotel but more like a home as described by people. Ms. Krautter stated there is Kuerig machine to prepare coffee and a basket of snacks but it is not a bed and breakfast.

Mr. Bond asked Ms. Krautter if she provided lodging. Ms. Krautter stated that the definition of lodging is up for debate, so she is not sure. It is for one or two nights so she would guess so.

Elizabeth Craddock, 611 West 15th Street, Tulsa, OK; stated she has known the Krautter family for a long time, back to the time when Ms. Krautter would rent a room from time to time. Ms. Craddock stated that Ms. Krautter asked her to rent a room so she could write a review about it to get the bed and breakfast going. Ms. Craddock

stated that she has three friends from high school that get together and last year they booked a room with Ms. Krautter. The bed and breakfast is on Airbnb and a place can be on Airbnb and not be a bed and breakfast. Ms. Craddock stated that she has stayed at places like Ms. Krautter's throughout the nation and it is the way to go these days. Ms. Craddock thinks Ms. Krautter is doing a good thing and it is done a lot all over town, it is a wonderful thing.

Mr. Van De Wiele asked staff if a person was allowed to have a bed and breakfast in a residentially zoned neighborhood if they had a Special Exception. Ms. Miller stated that is correct and that is the only type allowed in a residential district by Special Exception. Mr. Van De Wiele asked Ms. Miller if it was a lodging of any sort other than a bed and breakfast it cannot be done, not by right, not by Special Exception? Ms. Miller answered affirmatively. Mr. Van De Wiele asked if a person was going to rent a room on a short term basis in any R zoned district, then the person better get a Special Exception, correct? Ms. Miller answered affirmatively.

Dawn Slattery, 5824 South 170th West Avenue, Sand Springs, OK; stated that in February she and her husband were having work done on their house and had to stay some place. She discovered there is a plethora of places to stay in Tulsa and Ms. Krautter's was a nice alternative to a hotel. Ms. Slattery stated they walked into a home and stayed with the family and they reimbursed Ms. Krautter for being able to stay there. She and her husband chose Ms. Krautter's location so they would be close to Utica Square and places to eat. She and her husband stayed there for three nights. She and her husband contributed to the economy in the area. Ms. Slattery stated this is a good thing and it is going on all over the place.

Raeshelle Sharpnak, 518 North Willow Court, Jenks, OK; stated that in March her son was having his Bar Mitzvah and she needed a place for her aunts to stay. Her aunts are strictly kosher vegan so they brought their own food in. Ms. Krautter's place is within walking distance of the synagogue so it was a big benefit to her family. Ms. Sharpnak stated that her family really enjoyed their stay at Ms. Krautter's.

Mr. Van De Wiele stated there is nothing wrong with making an application to have a bed and breakfast in a neighborhood, but there cannot be a hotel in a R District. There cannot be a hotel, a rooming house, the only kind of lodging with 30 days or less that can be in a R District is a bed and breakfast. Mr. Van De Wiele stated he understands the convenience of it and that it is a current trend that is probably here to stay but there is a process of doing this the right way and that is make an application before to the City to receive a permit to operate a bed and breakfast in a person's home.

Rebuttal:

Lori Phillips came forward and reiterated that there is a notice that is required, even with the City. Her client received notice from the City that she was in violation of the Ordinance regarding a bed and breakfast only, not lodging, not all the other incarnations. It was specific to bed and breakfast only. Ms. Phillips stated that Ms.

Krautter is not operating a bed and breakfast pursuant to the definition that is set out in Ordinance itself.

Comments and Questions:

Mr. Bond stated that he understands that the violation should note the proper ordinance that is being violated. Here in the quasi judicial administrative body Section 70.140 states, "in exercising appeal power, the board of adjustment has all the powers of the administrative official from whom the appeal is taken. The board of adjustment may affirm or may, upon the concurring vote of at least three members, reverse, wholly or in part, or modify the decision being appealed." If that is the argument, that is simply in power of notice Mr. Bond would like to point out that whether that is success or not before this Board what will likely happen is that it must react in the state of the administrative official. The administrative official will go back cite Ms. Krautter for the proper violation which would be Section 35 taking the case back to square one. Or Ms. Krautter can file a Special Exception for a bed and breakfast. Mr. Bond stated that he has no intention of being forced to articulate what constitutes an adequate breakfast. Mr. Bond stated that he hopes the Board can find that this in violation of Section 35.050-G. Mr. Bond stated that it sounds like this is a great place. This is a service and he understands this the way people a doing now, and he is not here to knock that but there is a proper path to make the bed and breakfast a lawful activity.

Mr. Flanagan stated that this sounds like the applicant needs to apply through the proper channels if the applicant wants a bed and breakfast. It does not seem like that has been done.

Ms. Back stated that in going through Codes, the official in this particular instance, would go to the commercial use, under commercial use you would go to lodging, from lodging you would go to bed and breakfast, then back up the food chain to get all of the definitions or all the references. In that she is having a difficult time with this. She does not question whether it is a good service or whether the people have enjoyed the place, but she does believe there is a process where the applicant could apply for a bed and breakfast. Ms. Back stated that she does know there are a lot of neighbors that are not happy so she would probably get a lot of opposition. Ms. Back stated that as a Board member she cannot say whether she would support or deny the request at this point. There is a process for the applicant to go through and right now Ms. Back stated she cannot support this request.

Mr. Van De Wiele stated that he understands the technical question of whether there has to be a breakfast in order for it to be a bed and breakfast. That is a fine line to frame the question and the appeal. He thinks a second and just as equally large important issue is if the Board accepts the applicant's argument that this is not a bed and breakfast it some other form of lodging would be the necessary conclusion from that. It is not allowed. There may be a process of some sort of notice and another appeal or a cease and desist type action, that all seems to be unnecessary to go through that process. The question at hand, as to whether this is a bed and breakfast he looks back at the representations that were made by the applicant's prior

representative. The Board asked about a bed and breakfast and that representative told the Board that Ms. Krautter wanted to operate a bed and breakfast but that she had abandoned those plans. Mr. Van De Wiele stated he asked about it. Mr. Flanagan asked about it. And right before the motion was made Mr. Van De Wiele stated that he wanted to be clear that this will not be run as a bed and breakfast, and the representative stated that Ms. Krautter understood that and she also understands that she would need the Board's approval to do that. Mr. Van De Wiele stated that with all those things to him are pointing out that Ms. Krautter intended to run a bed and breakfast. What the Board heard a year and a half ago was the dire need for additional room for her family that would stay in the accessory building after it was rebuilt. It has not been built in a year and a half, and now there are two extra rooms that are available for rent to the public. Mr. Van De Wiele stated that he is having a difficult time matching with what this Board has heard as far as Ms. Krautter's intent on running a bed and breakfast. He sees reviews on the Airbnb website that talks about some degree of food being served. All of which together leads him to believe that this is a bed and breakfast for which no Special Exception has been applied for or granted by this Board. All of the other lodging questions aside he thinks this is a bed and breakfast and he supports the administrative official's determination.

Ms. Back stated that in Section 35.020-E the Code talks about determination use categories and subcategories. The Code states, "if a use can reasonably be classified in multiple categories, subcategories or specific use types, the development administrator or land use administrator is authorized to categorize each use in the category, subcategory or specific use type that provides the most exact, narrowest and appropriate 'fit'." It is not down to that it must meet every letter of the law it is just the most exact fit. Ms. Back believes the Tulsa Administrative Official classified it correctly.

Mr. Flanagan stated that what is confusing to him is that Ms. Krautter and her previous representative said that this is absolutely not a bed and breakfast. Even if Ms. Krautter goes through the steps to file for a Special Exception for a bed and breakfast, she will be before the Board again to say it is a bed and breakfast.

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 **AFFIRM** the determination of an administrative official and to **DENY** the Appeal of an Administrative Official's decision to classify the use of the property as a Bed & Breakfast under Section 35.050-G.1; for the following property:

**W90 E151 LT 6 BLK 25, PARK PLACE, SWAN LAKE TERRACE RESUB PRT L6&7
B25 PARK PLACE ADD, City of Tulsa, Tulsa County, State of Oklahoma**

Ms. Miller left the meeting at 2:12 P.M.

22227—Claude Neon Federal Signs – Ed Horkey

Action Requested:

Variance to permit 7 signs (1 pole sign and 6 wall signs) in the OM District to be oriented toward South Yale Avenue; Variance to increase the permitted display area of signage on the lot to 224 square feet to allow one pole sign and 6 wall signs on the lot (Section 60.060). **LOCATION:** 7307 South Yale Avenue East (CD 8)

Ms. Miller re-entered the meeting at 2:15 P.M.

Presentation:

Ed Horkey, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, OK; stated that he has explained to the applicant that in the OM zone there is only 32 square feet allowed per building, which could be in the form of a ground sign, wall sign or building sign. In order to accommodate the applicant's request he has prepared an exhibit for a wall sign and filed that with the City of Tulsa in order to receive a LOD to come before the Board of Adjustment. The property is located at 73rd and Yale which has a traffic count approximately 20,000 cars per day. The subject property is identified as a town center or an area of growth, and that encourages development or redevelopment of these areas. Originally the building was built as a single tenant structure. The owner closed the building and it sat vacant for a few years. In 2012 the building was purchased and remodeled into a multi-tenant office building of which medical has become the purpose for the structure. In 2014 the structure was before the Board for a digital display sign in front of the building and that will take 32 square feet of signage away from the building. The owner of the building has been approached by several of the tenants regarding the ability to place their names on the front of the building. There is an existing 32 square foot ground sign and he is asking to allow each tenant, up to six tenants, to have 32 square feet of non-illuminated wall signage. The signage would consist of non-illuminated aluminum dimensional letters. Mr. Horkey stated that he had received a letter of opposition from Jack Kelly Architects who has a building across the street. He has met with Mr. Kelly and discussed the application and what the intentions are. There was no agreement because Mr. Kelly's impression of what an office building should be is that they should have only numbers on them. Mr. Horkey stated that his argument to that is that there office type businesses that serve the public and then there are other offices where the public very seldom comes to. Mr. Horkey presented an exhibit of the proposed signage and had it placed on the overhead projector for viewing. Mr. Horkey stated that while he has requested signage for six tenants that does not necessarily mean that all six tenants are immediately going to place signage on the building.

Mr. Van De Wiele asked staff about how much total square footage for a sign would be allowed on the building for the Yale frontage and how much for the 73rd Street frontage.

Ms. Moye stated there would be a total of 50.4 square foot for the Yale frontage and 60 square feet for the 73rd Street frontage is permitted.

Mr. Van De Wiele stated that to him this building is starting to look like a commercial center rather than an office. He thinks that most commercial centers have a monument type sign with panels for all the tenants. He is having a hard time coming up with a hardship for this request of this much signage.

Mr. Horkey stated the tenants are not necessarily advertising their name on the building but they are identifying that their business is in the building. Mr. Horkey stated that it is his professional opinion that in the office districts such as this he considers the sign code to be inadequate; he does not believe it fully serves the best interest of all the businesses.

Mr. Van De Wiele stated that in going to six tenants has exacerbated the applicant's problem. He can see where there might be twelve because the building can be split upstairs and downstairs.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that this has the look of a commercial center and the look and character of the signage does not offend him. If the Board were to approve this request he would suggest narrowing down the amount of total signage is allowed on both frontages because he believes 224 square feet is too much.

Ms. Back stated that she cannot find a hardship for this request.

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 **DENY** the request for a Variance to permit 7 signs (1 pole sign and 6 wall signs) in the OM District to be oriented toward South Yale Avenue; and a Variance to increase the permitted display area of signage on the lot to 224 square feet to allow one pole sign and 6 wall signs on the lot (Section 60.060) for a lack of a hardship; for the following property:

LT 10 LESS BEG NWC LT 10 TH E20.89 SW29.55 N20.89 POB BLK 2, WOODCREST TWO RESUB PRT B2-3 WOODCREST ESTATES, NOB HILL, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Bond left the meeting at 2:42 P.M.

22235—Pam Bickle

Action Requested:

Special Exception to allow two carports in the street setback area in the R District (Section 90.090-C.1); Variance to allow a non-all-weather off-street parking area (Section 55.090-F); Variance to allow a fence and structures within the street right-of-way (Section 90.090). **LOCATION:** 1615 South 151st Avenue East **(CD 6)**

Mr. Bond re-entered the meeting at 2:45 P.M.

Presentation:

Brandon Bickle, Gable Gotwals, 100 West 5th Street, Suite 1100, Tulsa, OK; stated he is representing his mother. What they want to do is correct a mistake. There are two carports with the house located in between the two.

Mr. Flanagan left the meeting at 2:46 P.M.

The house is on a non-arterial street. The street is two lanes and dead ends and the area is unplatted. The area is very rural and there are four houses that are served by the road. This is a very minor encroachment into the setback area. His parents have owned the property since 1994 and the carports have been in existence about seven years. The carports are cut out of the steel pipe fence that is buttressed by large brick pillars. His parents operate a small business and the work vehicles would set on the driveway so they built the carports to protect those vehicles and to get them off the driveway. There is a good distance between the carports and the road but they are in the setback thus the Special Exception request. He does not believe the carports present any issues that could deny the Special Exception so he asks for approval of the carports. Mr. Bickle stated that his parents have agreed should the carports create an issue for the City at any time the City will not be responsible for rebuilding anything or they will address any issue at the time it arises. Mr. Bickle stated that he does not see the road changing in the future; it is a two lane road that serves just a few houses in an unplatted subdivision. The house is not a shop because what his parents do is service and take care of swimming pools. It is a family business and several people in the family do it so there may be three work trucks under the carports. The only part of the business within the house is a small office where his father takes telephone calls.

Mr. Flanagan re-entered the meeting 2:48 P.M.

Mr. Van De Wiele asked Mr. Bickle if his parents had visited with any of the neighbors. Mr. Bickle stated they had. The neighbor to the south and north do not have a problem.

The neighbors across the street have a problem with almost everything but he cannot articulate any reason. Mr. Bickle stated that he is not aware of any specific objections to this request.

Mr. Van De Wiele asked Mr. Bickle if the neighbors to the south have a fence in front of their property. Mr. Bickle answered affirmatively and offered a picture of that fence. Mr. Van De Wiele asked Mr. Bickle how long his parent's fence has been in existence. Mr. Bickle thinks it has been there for 24 years.

Mr. Van De Wiele asked Mr. Bickle if the parking surface under the carports is gravel. Mr. Bickle stated there is no gravel, but if they need to lay down something they will do it. Mr. Bickle stated that the City advised his mother to seek the Special Exception and if it is denied they will do whatever they need to do.

Mr. Van De Wiele stated that if the Board grants the Variance regarding the right-of-way the applicant will need to go through the process of getting a license agreement with the City. Mr. Bickle stated that his mother has started that process and she was told to come before the Board of Adjustment.

Ms. Back asked Mr. Bickle to explain the complaint about the large trucks making deliveries to the house. Mr. Bickle stated the trucks would be UPS or FedEx. Mr. Bickle stated that he read the complaint and his mother disputes that it actually happens.

Interested Parties:

Pam Bickle, 1615 South 151st East Avenue, Tulsa, OK; stated that if she cannot find a pool part locally she will have the part shipped to her house. Ms. Bickle stated that the same drivers for UPS and FedEx make her deliveries and she has explained to them about the neighbor across the road, and they drive down the road to turn around. Ms. Bickle stated that she does not get deliveries two and three times a day as stated, and she has installed a chain link fence with an electric gate to keep her dogs in the yard to make that neighbor happy. Ms. Bickle stated that her pool business works out of the back of the subject trucks year round so they erected the carports for the coverage from the elements. Ms. Bickle stated that the fence has been in place for 24 years and all they did was put a fence in where the old fence had been.

Comments and Questions:

Ms. Back stated that she does not have a problem with the fence and the carports, but she cannot find a hardship for the gravel.

Mr. Van De Wiele agreed with Ms. Back. Mr. Van De Wiele stated that he would be in favor of the carports and the right-of-way request but he cannot support not having an all weather surface.

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 allow two carports in the street setback area in the R District (Section 90.090-C.1) and a Variance to allow a fence and structures within the street right-of-way (Section 90.090) and to **DENY** the request for a Variance to allow a non-all-weather off-street parking area (Section 55.090-F). Finding the hardship to be the fence and structures have existed for many years. The fence and structures are subject to an application for a license agreement to construct and maintain private improvements upon public way approved through the City of Tulsa, and the approved license agreement is to be taken to INCOG for the case file. 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:

N/2 SE NE SW LESS W30 FOR ST SEC 10 19 14 4.77ACS, FAMILY WORSHIP CENTER EXT, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

22223—Paul Bush

Action Requested:

Appeal of an Administrative Official's decision to classify the use of the property as a Bed & Breakfast under Section 35.050-G.1. **LOCATION:** 1533 South Owasso Avenue East (CD 4)

Presentation:

Traci Jenkins, City of Tulsa Working In Neighborhoods Inspector, 175 East 2nd Street, Tulsa, OK; stated on February 28th Working in Neighborhoods received a complaint about a bed and breakfast operating out of residential structure. WIN inspected the property and was still unsure if the structure was vacant or occupied. The department researched water records and reviewed INCOG records and found no previous Board of Adjustment actions. Staff researched the internet and found the property listed on multiple websites, listed as a “cute and cozy craftsman bungalow in downtown Tulsa”. Staff then reviewed the Zoning Code to determine the lodging based on the rental of less than 30 days and being charged by the day or week, and cross filed it as a bed and breakfast. A zoning notice was sent to the property owner whose address is listed as being in Shidler, Oklahoma. On April 21 and May 5 WIN received additional complaints regarding the subject property. Staff was told the bed and breakfast was still operating during the time of their appeal and until the appeal. A neighbor stated that the current owner lives over 11 ½ hours away and does not use it for any purpose other than transient rentals. The owners have never provided any of the neighbors with contact information and never told anyone of their plan to be absent owners. There is a cleaning company that comes to clean the subject property. The subject house is listed on at least five sites and has several rentals during the week. The owners are never present, do not live there, and do not use the house as a home but use it to make money and allow revolving door of strangers to move in.

Paul Bush, 1533 South Owasso Avenue, Tulsa, OK; stated he is the home owner and it is his only home that he owns. Mr. Bush stated that his circumstances are unique and different, especially from the prior case heard today. He is a cattle rancher by profession. He was born in the industry and chose to come back to Oklahoma. He lived in Georgia and Colorado. He received his Masters in Real Estate and Finance while in Colorado, and he came back to Oklahoma to be closer to family. The ranch is a big part of his life; it is something he is committed to and always will be. He has also had a dream to own property in Tulsa. This is the only house he and his wife own. They spent their entire savings on the down payment. They do not hire out to have someone clean the house and they do not operate all the time. The house is only available when they are not using it. His occupation is seasonal and he is in charge of the well being of a 1,000 cows. He and his wife wanted to reserve the house as a vacation rental by owner. When the house is rented there is no food served. Mr. Bush believes he was classified incorrectly as a bed and breakfast. The house is not offered on an open policy. The house is not offered all the time, full time. If the house is rented you get the entire property, not one room at a time. He and his wife are not on the property serving a renter while they stay there. He thinks it is very important to clarify

that because this is an issue that is going to be seen more and more, especially in Tulsa. In the neighborhood about three streets away there is a bed and breakfast. He did not reach out to the neighbors but none of them reached out to him either. Mr. Bush stated that it is absolutely hearsay about their intent for the property and it is completely disrespectful. No one asked how he intended to use the property moving forward as his child grows. Mr. Bush stated that he was blatantly violated with the slap of the Code and to refuse him the ability to generate short term income on the subject property seems absolutely ridiculous. This situation can be made as messy as we want it to be but he wants to work with his neighbors for a resolution, but many of them feel like they own the street, own the neighborhood and should tell him what to do with his property. Mr. Bush stated that at this time given that there are no specific laws put in place in regards to defining one night entire rental property residential use without meal service that the Board uphold the appeal at this time.

Mr. Van De Wiele asked Mr. Bush how often a renter uses his property and how long is the duration? Mr. Bush stated he has had guests that range from one night at a time to entire weeks depending on their circumstance. A lot of the people come in for weddings, funerals or events.

Mr. Bush stated there is also a system of responsibility in place on the rental platforms. We have the ability to deny guests to stay and he has done that and has proof.

Mr. Van De Wiele asked Mr. Bush how many times does he have the one night to one week rentals. Mr. Bush stated that at this time it is about eight nights a month every weekend, but the house has not even been available for the first half of May. Mr. Van De Wiele asked Mr. Bush where he is when someone is renting out the subject property. Mr. Bush stated that typically he is on the ranch.

Mr. Van De Wiele stated that he understands that Mr. Bush wants to use the property as a rental and that it happens a lot, but he has to appreciate that the Board is bound by the Zoning Code. Mr. Van De Wiele stated that if the property is being rented for periods of 30 days or less the property will fall into the lodging category. The property is in an in a RS-3 District and the only type of lodging that can be had as a 30 day or less rental is a bed and breakfast. The Board has the authority and the power to grant a person a Special Exception to use a residential property as a bed and breakfast. Even if the Board were to agree with Mr. Bush that he is not a bed and breakfast he asked Mr. Bush what can the Board say he is. Mr. Bush stated that he is a residential home. He wants to work with the solution that justifies all parties. He is fine with not even renting the house on a temporary basis but he thinks long term denying the right is wrong and wrong for anyone. Why do we work for what we have? It is for our personal property and the right of that property. If that is gone then what do we work for? He sees this as denying his family income and he does not want it to be a full time rental.

Mr. Van De Wiele stated that is his point. He told Mr. Bush that neither he nor his neighbors have the ability or authority to reach that sort of agreement, that one night a month is okay or eight nights a month is okay. A person cannot use a residentially

zoned piece of property for a cattle holding pen. There are zoning limitations and the Board has to operate within the bounds of those limitations granting Special Exceptions and Variances where they can and where they are justified.

Interested Parties:

Cyrus Lawyer, 225 East 29th Street, Tulsa, OK; stated he is a board member of Neighborhood's Neighbors. The Neighborhood's Neighbors enforces the enforcement of the Tulsa City Zoning Codes. Under the code Maple Ridge is designated as a residential single family district. A commercial use of a property specifically, to use as a short term rental as the primary purpose in a residential single family district must be reviewed and granted a Special Exception by the City of Tulsa. The Code sets forth that the commercial use of a residential single family property must not be detrimental to the public welfare, must be compatible with the surrounding and not injurious to the neighborhood. When it is proposed that a residential single family property be used as a short term rental the Board is to review each application on a case by case basis to determine if the proposed use in harmony with the spirit and intent of the Code.

Emily Bolusky, 1532 South Owasso Avenue, Tulsa, OK; stated that she took a key over to the neighbors and introduced herself when they moved in because she had the previous neighbors spare key. She did not know to ask them if they intended on living in the house or not. The applicant may thinks this is a big deal but there are many children that live on that street and they do not know the people coming in and out of the house. The neighborhood has large front yards and tiny back yards so everyone plays in the front yard. Ms. Bolusky stated that she was excited when the applicant moved in and she does not think that they would like to live next door to a house that had 10 to 15 new people a week. It is not what people want. A person does not move into a neighborhood to have constant new neighbors and if she wanted that she would move into an apartment building. When a person moves into a neighborhood you live by the fact that people are neighbors and they support each other, and the applicant does not live there. The applicant has lived in the house five or six nights total.

Mr. Van De Wiele asked Ms. Bolusky in what time frame was she talking about for the five or six nights. Ms. Bolusky stated that it would be since February 2017.

Ryan Scharnell, 1525 South Owasso, Tulsa, OK; stated he lives one house north of the subject property. Mr. Scharnell stated the fact that Mr. Bush says they are not there is outrageous, that means they do not know who is coming in and out of the house. If there is an issue with a gas leak or anything the owner is not there. This is absent owner. Mr. Scharnell stated there are 15 elementary school children within four houses of the subject property and the fact that the owners are not in the house is a concern.

Jim Lee, 1520 South Owasso, Tulsa, OK; stated he and his wife purchase their home in 1977. His house is on the west side of Owasso, it was built in 1915, the neighborhood is unique and he knows all his neighbors. The neighborhood is a very social neighborhood and today is the first time he has seen Mr. Bush. South Owasso is a narrow street and there is parking on one side of the street only. Mr. Lee thinks Mr.

Bush made a mistake by not coming before the Board of Adjustment in the beginning and now he is asking for an approval on his mistake at the neighborhood's expense. There are 18 houses in the neighborhood and all of them are single family residences except Mr. Bush's which is clearly a business. It should not be the neighborhood's responsibility to take care of Mr. Bush's mistake. Mr. Lee stated he is opposed to any business coming into the neighborhood and that would include Mr. Bush's business. There are two houses in the neighborhood that have tenants living in the house's garage but the main house residents live there full time so they are able to supervise the renters for any problems. Mr. Bush lives one hour away from his property so what will happen should the police be called? This is clearly a business establishment in a single family home with an absentee owner.

Paul Stevenson, 1537 South Owasso Avenue, Tulsa, OK; stated he lives next door to the subject property and he has lived there for 24 years. When he and his wife moved into the neighborhood it was old and run down and his house was only livable. At that time the front driveways were gravel and filled with dead cars, and gradually the neighborhood has been rehabilitated. There are at least eight children living in the area and they play on the street. The houses in the neighborhood are very close together with very little parking. There are retired residents that help keep an eye on things. Mr. Stevenson stated that he has met Mr. Bush and they had a nice talk but he does not believe Mr. Bush has an understanding of city life. Mr. Stevenson stated that he did give Mr. Bush his e-mail address and asked that he send him his e-mail address, but he never did and that was the last contact he had with Mr. Bush. Mr. Stevenson stated that he rarely sees the Bush's car at the house and there is a constant stream of strangers coming in and out.

Erica Townsend Bell, 1524 South Owasso, Tulsa, OK; stated that she would like to echo what the others have said, until today she had no idea who the Bush's are. She would like to get to know them and to see them become a part of the neighborhood. The house is not owner occupied and that means they have no relationship and the neighborhood is a social neighborhood. The problem that rises is that the neighbors have very little recourse. She appreciates hearing that the Bushes are screening the people that stay in the house but she has nothing but his word to take on that with no way to contact Mr. Bush to verify that.

Rebuttal:

Paul Bush came forward and stated that is wonderful to have concerned neighbors. He cares about their wishes and respects. Mr. Bush stated that he did notify Mr. Stevenson that he would be interested in renting the house out on a night-to-night basis and his response was "no you cannot do that". With that answer Mr. Bush stated he got the impression that Mr. Stevenson thought he ran the neighborhood putting him on the defensive. The first contact he has had with his neighbors is today even though he has been at the house several times and stayed several nights. Mr. Bush stated that when he received the notice from the City he had not received any compensation or payment for anyone staying in the house. On February 28th when the notice was received he had not received a dime for anyone staying in the house so at that time he was not a

bed and breakfast. He would like to have a relationship with a neighbor who could police the property, and he asked Mr. Stevenson if anyone had been an issue and Mr. Stevenson replied no. Mr. Bush stated he is concerned about the people being respectful to the neighbors that live there. He also has constant communication with the renters at the time they are there. He would like to make this a good relationship with everyone involved and he believes it is possible.

Comments and Questions:

Ms. Back stated that the Code is not keeping Mr. Bush from making money on his property, he would just have to do long term rental for 30 days or more so that is an option. That is probably not what the neighborhood would like but that is an option in the Code.

Mr. Flanagan stated that if Mr. Bush wants to have a bed and breakfast he should apply for a Special Exception. Unfortunately that did not happen.

Mr. Van De Wiele asked staff what the definition of a bed and breakfast is in the Code, because he always got the sense that the owner or proprietor was on the property. Ms. Miller stated the definition of a bed and breakfast is “a detached house in which the owner/operator offers overnight accommodations and meal service to overnight guests for compensation”. So the Code does not say the owner has to be on the property but that is the tradition. Mr. Van De Wiele stated this seems less like a bed and breakfast to him than the first case heard today. If this is not a bed and breakfast then it is not allowed at all, by Special Exception or otherwise. Mr. Van De Wiele asked Ms. Miller what the other lodging classifications are. Ms. Miller stated they are under the sub-categories and they are hotel/motel, recreational vehicle parks, campground and rural retreat none of which are allowed in residential.

Mr. Bond stated that he believes Mr. Bush is stuck between the rock and a hard place. It is arguable that he provides lodging for commercial purposes. That places him in the hotel/motel category which not where he wants to be.

Ms. Blank stated that the Code states that in acting upon the appeal the Board of Adjustment must grant to the official’s decision of presumption of correctness placing the burden and persuasion of error on the applicant.

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 **AFFIRM** the determination of an administrative official and to **DENY** the **Appeal** of an Administrative Official's decision to classify the use of the property as a Bed & Breakfast under Section 35.050-G.1; for the following property:

LTS 17 18 BLK 6, MORNINGSIDE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22238—Nickia Ross-Greene

Action Requested:

Spacing Verification to allow a family child care home in the RS-3 District (Section 45.070-A). **LOCATION:** 6924 East 78th Place South **(CD 8)**

Presentation:

Nickia Ross-Greene, 6924 East 78th Place, Tulsa, OK; stated the request if for a home day care. Education is in a crisis in Oklahoma and she was one of the people that lost their job last year, so she started a home day care for income.

Mr. Van De Wiele stated that the Board sees the survey on page 9.7 in the agenda packet. He asked Ms. Ross-Greene if she was aware of any other family child care facilities in the area. Ms. Ross-Greene she searched all the day cares in her zip code and she is the only one within 300 feet of the subject address.

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) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing shown on the attached exhibit, indicating that there are no existing Family Child Care Homes operating within the required spacing radius of the subject lot per exhibit 9.7; for the following property:

LT 2 BLK 7, SWEETBRIAR B1-12, City of Tulsa, Tulsa County, State of Oklahoma

22239—Francisco Valdes

Action Requested:

Verification of the 300 foot spacing requirement for a bar from public parks, schools, sexually oriented establishments, other bars and religious assemblies; and the public entrance doors 50 ft. from an R-zoned lot. (Sec. 40.050)

LOCATION: 6510 East 21st Street South **(CD 5)**

Presentation:

Francisco Valdes, 6510 East 21st Street, Tulsa, OK; stated currently he is an aircraft inspector at the airport. He has received all the permits and the certificate of occupancy from the City of Tulsa. He opened the restaurant about ten days ago and named the

restaurant Miami Nights because all of the seafood will be shipped from Miami. The restaurant is being dedicated to his son who is in the service and will be coming home soon. This will not be a regular night club because he would like to bring a little Cuba to Tulsa and the dancing will be similar to ballroom dancing.

Mr. Van De Wiele expressed the Board's appreciation to Mr. Valdes son and the family for his service to this country.

Mr. Van De Wiele stated the spacing verification has been received by the Board and it is on pages 10.9 and 10.11 in the Board's agenda packet.

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) 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, per exhibit 10.9 and 10.11; for the following property:

E425 N/2 NW NW NW LESS E239 AND LESS BEG 235.08 NE NWC NW TH E186 S36 W186 N36 POB SEC 14 19 13 1.255ACS, City of Tulsa, Tulsa County, State of Oklahoma

22241—Encinos 3D Custom Products – Christian Ortiz

Action Requested:

Variance to reduce the separation requirement for a freestanding sign from an outdoor advertising sign from 30 feet to 20 feet (Section 60.040-B); Variance to increase the permitted sign display area to 907.75 square feet to allow two freestanding signs on a CS zoned lot not located outside the freeway corridor.

LOCATION: 6100 South Sheridan Road East (CD 9)

Presentation:

Christian Ortiz, Encinos 3D Custom Products, 9810 East 58th Street, Tulsa, OK; stated the subject property is location at 6100 South Sheridan which was the previous Silver Flame Restaurant. On the same property is outdoor advertising operated by Lamar and it has been there since the previous owner. Tally's Good Food took possession of the subject property about a year ago. When Tally's purchased the subject property they did not obtain any rights to the Lamar billboard which has been there since the late

1970s. The Variance request is to replace the sign on the existing post that held the Silver Flame sign. The new sign will be slightly larger than the old sign which will 187.75 square feet which accounts for the arrow. The hardship is the existing billboard because if the billboard were not there everything would be in compliance, but the owner has no control over the billboard and cannot remove it.

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 reduce the separation requirement for a freestanding sign from an outdoor advertising sign from 30 feet to 20 feet (Section 60.040-B); Variance to increase the permitted sign display area to a total of 907.75 square feet to allow two freestanding signs on a CS zoned lot not located in the freeway corridor. The Board finds the hardship to be a new tenant needing a new sign with an existing three sided billboard sign on the property. The approval is per conceptual plan shown on pages 11.11 as constructed for the three sided billboard, and conceptual plan 11.13 for the new sign. 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:

PRT LT 1 & PRT VAC ST BEG MOST SELY COR TH W225 N630.70 E237.96 S TO PT TH ON CRV RT TO PT TH S550.70 TH ON CRV RT 39.21 POB BLK 1; PRT LT 1 & PRT VAC ST BEG MOST SWLY COR TH ON CRV RT 39.33 N550.70 TH ON CRV

RT 39.21 W TO PT N30 E700 S630.70 W650 POB BLK 1, BROADVIEW HGTS 2ND ADDN RESUB B2-4 BROADVIEW HGTS ADDN, BROADVIEW HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22242—Dewberry – Phillip Condley

Action Requested:

Variance to permit 884 square feet of sign display area to permit 4 signs along Southwest Boulevard; Variance to permit 738 square feet of sign display area to permit 5 signs along West 17th Street South frontage; Variance to permit 6 wall signs with a total of 937 square feet sign display area on the north elevation with no street frontage (Section 60.060). **LOCATION:** NE/c of Southwest Boulevard and West 17th Street South **(CD 2)**

Ms. Back left the meeting at 4:01 P.M.

Presentation:

Phillip Condley, 1350 South Boulder, Suite 600, Tulsa, OK; stated he represent Oklahoma State University Center for Health Sciences campus. The Variance requests are to allow three additional exterior building signs to be mounted on the north, south and west face of the subject building. The hardship is to provide clear identification and direction to the new building, an existing site, which is located between two highways with multiple exits and there are several other university facilities in the general area. It is necessary for people to locate this facility quickly from the highway by recognizing the logo and the building name.

Ms. Back re-entered the meeting at 4:03 P.M.

The signage is designed to be appropriate and proportional to the building with the north and south signage coverage only being 1.02% of the building face, and the OSU Center for Health Sciences logo covering 2.81% of the west façade facing the highway. The new OSU signage is significantly elevated and will not impact the immediate surrounding area. The OSU campus is committed to being a good neighbor and respects the gateway presence in the downtown area. Granting this Variance will allow the university to continue to fulfill their mission statement which is, "Oklahoma State University Center for Health Sciences educates and trains Osteopathic physicians, research scientists, and other health care professions with emphasis on serving rural and underserved Oklahoma".

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 Variance to permit 884 square feet of sign display area to permit 4 signs along Southwest Boulevard; Variance to permit 738 square feet of sign display area to permit 5 signs along West 17th Street South; Variance to permit 6 wall signs with a total of 937 square feet sign display area on the north elevation with no street frontage (Section 60.060), per conceptual packet submitted today, May 23, 2017. The Board finds the hardship to be the topographical layout and the intended use of the building. 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:

**ALL BLK 5 & N35 VAC ST ADJ ON S BETWEEN RR R/W & JACKSON AVE,
RIVERVIEW PARK SECOND ADDN RESUB, WEST TULSA ADDN, City of Tulsa,
Tulsa County, State of Oklahoma**

22244—Ronnie Herron

Action Requested:

Special Exception to allow a driveway outside the right-of-way to exceed 30 feet in width to 48 feet, in the RS-1 District (Section 55.090-F3). **LOCATION:** 3220 East 61st Street South **(CD 2)**

Presentation:

Ronnie Herron, KRK Properties, P. O. Box 303, Jenks, OK; stated he represents Dr. & Mrs. Dave Malone who he is building a custom residence for. The 1.6 acre lot is unplatted and located at 61st and Harvard. Mr. Herron stated that he has a long standing relationship with the subject property because it was his grandmother's property before the Malone's purchased it. The previous structure was razed and the driveway is existing and has been there since 1990. In order to easily access the detached garage and the attached garage from the motor court the 30 foot new Code maximum is not adequate. The elevation from 61st Street and from Harvard Avenue does not allow anyone to see whether the driveway is 80 feet wide or 20 feet wide. Dr. Malone has a brother living with him that is terminally ill and the reason for the house being built on level and flat property is so the brother can have access via wheelchair vehicles to come and go.

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 Special Exception to allow a driveway outside the right-of-way to exceed 30 feet in width to 48 feet, in the RS-1 District (Section 55.090-F3), per conceptual plan on page 13.10 in the agenda packet. 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 NE NE BEG NEC NE TH W355 SW120.61 SE145 E335 N265.07 POB LESS
BEG NEC NE TH S265.07 S50 N193.26 NW32.42 CRV RT TO PT ON NL SEC E TO
POB SEC 5 18 13 1.65AC, City of Tulsa, Tulsa County, State of Oklahoma**

22245—Wallace Engineering – Jim Beach

Action Requested:

Special Exception to allow an institutional/religious assembly use in the RS-3 District (Section 5.020). **LOCATION:** 14905 East 21st Street South (**CD 6**)

Ms. Back recused and left the meeting at 4:14 P.M.

Presentation:

Jim Beach, Wallace Engineering, 200 East Brady, Tulsa, OK; stated there is an existing building which is a church and has been in existence since the 1980s. On pages 14.15 and 14.16 shows an expansion to the west to accommodate an additional church building and additional parking. The new building will be in the northern portion of the property while parking and a shrine are located in the southern portion.

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 **Special Exception** to allow an institutional/religious assembly use in the RS-3 District (Section 5.020), per conceptual plans on pages 14.15, 14.16, 14.17, 14.18, 14.19 and 14.20 in the agenda packet. 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:

BEG 363N SECR SW SW TH N331 W330 S331 E330 POB LESS W25 THEREOF FOR RD SEC 10 19 14 2.31ACS; N120 S363 OF E330 E/2 SW SW LESS W25 THEREOF FOR RD SEC 10 19 14 .77ACS, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Back re-entered the meeting at 4:18 P.M.

OTHER BUSINESS

None.

NEW BUSINESS

None.

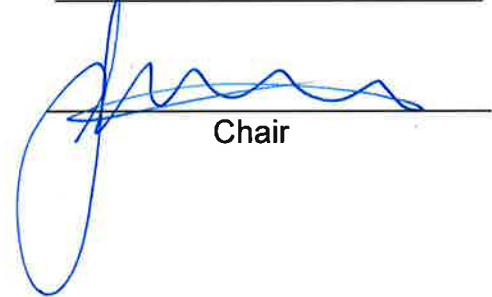
BOARD MEMBER COMMENTS

The Board wishes David White well and they miss him.

There being no further business, the meeting adjourned at 4:16 p.m.

Date approved: _____

6/13/17

A handwritten signature in blue ink, consisting of a large loop on the left and several smaller loops on the right, written over a horizontal line.

Chair