

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1188
Tuesday, July 25, 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 Back	Flanagan, Secretary Bond	Miller Moye Sparger Ulmer	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, July 20, 2017, at 10:34 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 3-0-0 (Back, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond, Flanagan absent) to **APPROVE** the **Minutes** of the June 27, 2017 Board of Adjustment meeting (No. 1186).

On **MOTION** of **BACK**, the Board voted 3-0-0 (Back, Van De Wiele, White "aye"; no "nays"; White "abstaining"; Bond, Flanagan absent) to **APPROVE** the **Minutes** of the July 11, 2017 Board of Adjustment meeting (No. 1187).

Mr. Van De Wiele explained to the applicants and interested parties that there were only three board members present at this meeting. 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 all three board members to constitute a majority and if one or 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.

NEW APPLICATIONS

22284—Lamar Outdoor Advertising – Lorinda Elizando

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 feet from another outdoor advertising sign on the same side of the highway (Section 60.080-F.5); Verification of the spacing requirement for a dynamic display outdoor advertising sign of 1,200 feet from any other dynamic display outdoor advertising sign facing the same traveled way (Section 60.100-K). **LOCATION:** NW/c of North 145th Avenue East & I-44 **(CD 3)**

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The applicant has withdrawn the application.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:

S/2 NE SE SE & S/2 SE SE LESS BEG SECR SE TH W1328.18 N138.98 E1147.84 N273.12 NE589.42 E70 S991.73 POB SEC 33 20 14 18.632ACS, City of Tulsa, Tulsa County, State of Oklahoma

22285—Valorey Totten

Action Requested:

Special Exception to allow a Type 2 Home Occupation in the RS-1 District to permit a Landscaping Business (Section 45.100). **LOCATION:** 19140 East 7th Street South **(CD 6)**

Presentation:

The applicant request a continuance to the September 12, 2017 Board of Adjustment meeting to allow additional time to prepare a survey/site plan.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 3-0-0 (Back, Van De Wiele, White "aye"; no "nays"; "abstaining"; Bond, Flanagan absent) to **CONTINUE** the request for a Special Exception to allow a Type 2 Home Occupation in the RS-1 District to permit a Landscaping Business (Section 45.100) to the September 12, 2017 Board of Adjustment hearing; for the following property:

LT 1 BLK 2, INDIAN HILLS, City of Tulsa, Tulsa County, State of Oklahoma

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UNFINISHED BUSINESS

22273—Paul Bush

Action Requested:

Special Exception to permit a Bed and Breakfast (VRBO) on the property (Section 5.020). **LOCATION:** 1533 South Owasso Avenue East (**CD 4**)

Presentation:

Paul Bush, 1533 South Owasso Avenue, Tulsa, OK; stated he has been operating as a nightly rental since May and April is when he started. There have been no incidents with police involvement and has had no incidents with any of his guests. None of his guests that have stayed at the residence have caused mischief of any kind since he has opened. Mr. Bush stated that he believes that is proof of non-injury and that the house is being operated as he intends to operate it. Mr. Bush stated that he does not know if the neighbors like the VRBO or not, but he thinks most of their grounds is that they do not know him as well as they would like making them uncomfortable in this situation. Mr. Bush does not think that is enough grounds to limit his availability to operate this VRBO on the property. Mr. Bush stated that he has met with every individual who has requested to stay on the property because they are not automatically accepted. He has the opportunity to look at the proposed guest's rental history and their track record at other places. He also receives feedback from other hosts. He typically does not accept anyone that does not have a rental history and he develops a rapport with the guest

before they are accepted. He asks guests what their business is, why they are in Tulsa, what they plan on doing on the property and the first rule of the property is no parties. Mr. Bush stated the property is not intended to be a party house. This is not intended to be a motel that functions as such. Of that needs to be mitigated he could install NEST security camera and that would mitigate any malintent any renter might have. Mr. Bush stated that he has operated for a few months now, stellarly. He has no complaints from any of the renters and they like their time in Tulsa speaking very highly of it. The guests speak about how great the location is and being within walking distance of many bars and restaurants and close to downtown. The subject location serves several locations, i.e., the fairgrounds, Tulsa University, in Tulsa very well. Mr. Bush stated that he believes this will buoy property values by allowing another use of a residential property. Places that limit uses or have high restriction or home owners associations historically do not have the high market rate. Mr. Bush stated that he filed this request in line with the recommendation made at the last board meeting he attended. The Board recommended that he file for a Special Exception for his intent of the property. Mr. Bush stated that his life circumstance is that he has a family cattle ranch that he manages in Osage County so he splits time between Tulsa and the cattle ranch. He would rather have someone on the property than the property vacant because a vacant property is an invitation to criminal activity. It is in his neighbor's best interest to have the VRBO.

Mr. Van De Wiele asked Ms. Moye if the e-mails the Board has are all the ones that were received. Ms. Moye answered affirmatively. Mr. Van De Wiele informed Mr. Bush the Board received three or four e-mails from interested parties that are in opposition to the request.

Mr. Van De Wiele asked Mr. Bush how often does he rent the property and how many times a month on the average, and how large of a party does he rent the property to. Mr. Bush stated the typical renter stays two or three nights, but he has had extended stays where there were ten night stays and seven night stays. The house is typically rented only half of the month and he has future guests that are interested in extended stays. Some of the guests are people traveling through Tulsa with their pet and this VRBO allows the guest to leave the pet while they go enjoy a meal. Mr. Bush stated that on the average it will be a two or three night stay and he rents the house out ten to fifteen days a month typically.

Mr. Van De Wiele asked Mr. Bush if he knew anything about one of his renters trying to enter into another house. Mr. Bush asked if there was a police report made. Mr. Van De Wiele stated that he did not know and read a letter that had been written to the Board regarding the incident. Mr. Van De Wiele asked Mr. Bush how he deals with the communication issues of where the guest is going, and where they are staying. Mr. Bush stated that it is more common than not in today's society so the address can be typed in and be shown a picture of the house on Google maps, and he would welcome installing larger and lit house numbers if necessary.

Interested Parties:

Jim Lee, 1520 South Owasso, Tulsa, OK; stated he spoke at the last meeting. Mr. Lee stated that he can look out his window across the street and see the subject property. There are currently two renters cars parked in the driveway and on the street. Mr. Lee stated that he recalls Mr. Bush being told at the May 23rd hearing that he had ten days to conclude his business which he has not. Mr. Lee stated the business has increased since that meeting and renters are almost continuous. Mr. Lee stated that he looked at Mr. Bush's Airbnb webpage and the property is booked into August and part of October. Mr. Lee stated the neighbors should not have to be here today. Many of the neighbors have taken off work and changed schedules in order to protect and protest the neighborhood's wellbeing. Mr. Lee quoted an article in Realtor Magazine, dated December 2015, "when someone has purchased in a single family or multi-family zone they have accepted the rules of that zoning. They do not have the right turn their home into motel transient zone to the detriment of everybody else." Mr. Lee stated that in his opinion the Airbnb does nothing positive to the neighborhood. He and many of the neighbors are concerned as to how much an Airbnb will devalue the homes. He and the neighbors do not want commercial business in the neighborhood, and he objects to this application.

Ryan Sharnell, 1525 South Owasso, Tulsa, OK; stated he lives two houses north of the subject property and he moved into the house a year ago. There is a preschool about a block north of the subject property that his children attend and the school has between 300 and 400 children between the ages of 3 months to 7 years old. He walks by the subject property everyday while walking his children to the school. There are cars that block sidewalks and sometimes there are renters that have three or four cars per rental that park two cars in the driveway and one in the street. The street is one-sided parking only and the houses are older with smaller driveways. When he moved into his house it took him one hour to meet seven or eight of his neighbors. This is a quiet family child oriented neighborhood. Mr. Bush has lived there for several months and the first time he met him was at the last hearing and the second time was today, he does not live in the subject house. Mr. Sharnell stated that Mr. Bush shows up on weekends to mow the lawn, clean up after the renters, and then leaves. Mr. Sharnell stated that Mr. Bush testified that he does not even keep food in the refrigerator so they would not be a Bed and Breakfast because they did not serve meals. If someone lived in the house half of the time there would be food in the refrigerator. Mr. Sharnell thinks Mr. Bush is being disingenuous with the Board. The Board is probably aware that this is a historic neighborhood with the Historic Preservation Society recognition and it is on the National Historic Registry. Mr. Sharnell stated that the renters will treat the house as a hotel/motel because they are not aware of the historic significance of the house or the houses near it. Mr. Sharnell stated there are 15 to 20 children that live in the neighborhood and his concern, having small children of his own, are sexual predators. The neighbors do not know the renters or if they have committed crimes. Another concern he has is the enforcement of any Special Exceptions the Board places on the subject property. Mr. Sharnell stated that Mr. Bush has testified that after his appeal was denied ten days later it was final and he was told not to operate his business, he continued to operate his business. Since May 23rd there have been at least nine renters

on the property. Mr. Sharnell stated that he has e-mailed Tim Cartner with Working In Neighborhoods several times after the appeal became final telling there are renters and asking what can be done. Mr. Sharnell stated that Mr. Cartner is basically powerless because Mr. Bush does not live there, Mr. Bush lives in Shidler, Oklahoma. Mr. Cartner stated that WIN has to serve the property owner on the premises while there is a renter. Mr. Sharnell stated that can never happen in this case because Mr. Bush rents the whole house. Mr. Cartner informed Mr. Sharnell via e-mail that he is meeting with the City Prosecutor for additional information of requirements to move this case forward. If the property owner does not cooperate with the requirements zoning cases often times have to go through a lengthy process to resolve.

Mr. Van De Wiele stated that the ten day period that Mr. Sharnell referred to is nothing specific that the Board placed on the denial. The ten days is an appeal time period.

Mr. Sharnell stated that he kept telling Mr. Cartner about renters on the property and Mr. Cartner has stated that he continues to keep the case open and is aware of the violations. Mr. Sharnell stated that this is something new to the City and the City does not know how to enforce these. Mr. Sharnell stated that he thinks Mr. Bush does not really care what this Board tells him, he is going to do what he wants to do because he spent his life savings on the house and no one is going to tell him how he can use his property. Mr. Sharnell stated that in the Board's agenda packet there is reference to case BOA-22269 is relevant to the action and he spoke at that hearing to suggest the Board wait until there are provisions that apply specifically to the plural home rentals. Enforcement is not ready for them and the Zoning Code does not really apply to these. Mr. Sharnell stated that he believes that someone does have to be on the premises, looking at Section 40.060. That section limits bed and breakfast rentals to guest rooms. Mr. Sharnell stated that even the broadest reading of guest rooms to include the total house would have to include the bedroom, the bathroom, the kitchen, and the living room. In Section 40.060-D prohibits renting cooking facilities. Mr. Sharnell stated that if Mr. Bush is renting his whole house he is renting the kitchen. A kitchen is clearly a kitchen facility. The Code was written based on the general terms as we define a bed and breakfast. It is where the owner stays in the house, prepares the meals in the kitchen, and a renter rents a single guest room. Mr. Sharnell stated that if Mr. Bush is renting the entire house he is renting a cooking facility violating Section 40.060-D. Mr. Sharnell stated that when the Board approved the bed and breakfast for Mrs. Haynes, he believes Mr. Flanagan looked at what she had done prior to her application. She had never violated the Zoning Code by renting the house prior, she went to the neighbors, gave them contact information, explained to them what she wanted to do, explained how she was going to get the renters, and Mr. Flanagan stated "the only way to judge future behavior is to look at past behavior". Mr. Sharnell stated that Mr. Bush has violated the Code by renting short term without any detection, he appealed, and he lost. He never appealed that decision and continued to rent regardless of what the Board told him to do. Mr. Bush never met with any of the neighbors prior to renting the house. At the May 23rd hearing Mr. Bush stated that he wanted to work with the neighborhood and he never reached out to anybody after that meeting. Mr. Sharnell stated that Mr. Bush's past actions leave him to believe that any conditions that the

Board places on the rental will not be followed. Mr. Bush wants to make money, he wants to live an hour away, and he wants the neighbors to police the property for him. Mr. Sharnell presented pictures as exhibits of cars parked in the driveway of the subject property.

Mr. Van De Wiele asked Mr. Sharnell about a white SUV that was in a picture blocking the sidewalk but yet in the driveway. Mr. Sharnell stated that was his SUV and he was backing out of his driveway. Mr. Van De Wiele asked Mr. Sharnell who took the photo. Mr. Sharnell stated that Ms. Stephenson took the photo. Mr. Van De Wiele asked Mr. Sharnell asked if he was testifying that the SUV in the photo was in motion. Mr. Sharnell answered affirmatively.

Mr. Van De Wiele stated that there was comment made about an application from Ms. Haynes, and the reason Mr. Sharnell was quoting it is fine, but every application for every matter that comes before the Board is one on. They do not set precedential value one for the other. The fact that the Board grants one or denies one does not indicate that the Board grants or denies the next one that comes before the Board.

Mr. Van De Wiele asked staff if all the Airbnb types are not coming through as the traditional bed and breakfast, or as the bed and breakfast best fits the request. Ms. Miller stated there is a provision that directs staff to do that. Mr. Van De Wiele asked Ms. Miller if the City was looking at this situation as to how better define and regulate this. Ms. Miller stated there was an initial meeting and a couple of staff in the Council office are doing research, and that is step one. The plan is to continue discussions about this to more specifically address these situations or the variations thereof.

Mr. Sharnell stated that he was the understanding that there had been a violation given. Ms. Miller stated the Code section applied, the main purpose of the Code section is for the permit center, the knowledge so they could figure out what the use is and what regulation would be applied. Mr. Sharnell asked if Mr. Bush was specifically applying for a bed and breakfast Special Exception. Ms. Miller answered affirmatively and stated that is the closest in the Zoning Code. Mr. Sharnell stated that in Section 40.060 is the bed and breakfast Special Exception and that provision does not allow Mr. Bush to rent a cooking facility. Ms. Miller stated that because there is not something verbatim exactly matching the type of operation that Mr. Bush is operating it has to be the closest in the Zoning Code. It may not match every single fact in the Code description but it is the closest that we have. Staff has to be able to go to something to know what rules apply. Ms. Moyer stated Section 35.020-E is the where to find the determination of Use category. Ms. Miller stated "that when a use cannot be reasonably classified into a use category, subcategory or specific use type, or appears to fit into multiple categories or specific use types, the development administrator or land use administrator is authorized to determine the most similar and thus most appropriate use category, subcategory, or specific use type based on the actual or projected characteristics of the principal use or activity in the relationship to the use category, subcategory and specific use type descriptions provided in this chapter." Ms. Miller stated that it has to be the closest fit. Mr. Sharnell stated that he understands that but Mr. Bush is specifically

applying for a bed and breakfast Special Exception or an Airbnb. Ms. Miller stated that this is the closest staff has to Airbnb.

Meredith Waddel, 1521 South Owasso Avenue, Tulsa, OK; stated she lives three houses north of the subject property. Ms. Waddel stated that it was her house that a guest tried to enter into. She was out of town at the time and had her family been home it could have been very, very bad. That is not a safe thing to have happen in the middle of the night in a neighborhood where people have chosen to have their families. Ms. Waddel stated they chose to live there permanently with their family to build a community and that is not building a community. That is causing fear. That is causing doubt. She thinks this is something that should be greatly considered in deciding that this is not the best place to have an Airbnb. Ms. Waddel stated that she grew up in the neighborhood on South Newport and she loves the neighborhood. It is a little intimidating when there adults walking around and the residents do not know who they are, and certainly the risk and fear of someone trying to enter into your home..

Anthony Agostino, 1601 South Norfolk Avenue, Tulsa, OK; stated everything about the neighborhood is neighborhood. The website Mapleridge.com says that Maple Ridge is in the heart of mid-town Tulsa, close to everything, and everything on the website talks about neighborhood, about community, and getting to know your neighborhood. One of the things that Maple Ridge is notorious for is the sense of preservation. If a person wants to paint their house, to strip the paint off the house, change the windows, if you want to do anything the home owner must go before commissions and do all sorts of things just to paint the house because there is an extreme urge to preserve what was there. Mr. Bush talks about adding value to the neighborhood by increasing with a VRBO or an Airbnb but he would counter that, if Mr. Bush would have spent as much as money as his neighbor for the installation of a retaining wall and had to appeal to panel after panel after panel with Engineers to verify that the wall was in line with the intent of the neighborhood he would say they have something to talk about. Mr. Bush says that simply by paying for and filing an application for violating restrictions that he was explicitly told to stop is preposterous. Maple Ridge is a historic neighborhood and the intent of all of this is to preserve the spirit of the neighborhood. Buying a commercial property is not an accident, Mr. Bush is running a very successful well-known cattle property in the north. Mr. Agostino presented Google pictures of the surrounding area houses and stated the house prices keep going up not because of a VRBO but because it is attached to the historical security sanctity of Maple Ridge. The residents do not need Mr. Bush to improve the neighborhood. A neighborhood is not improved by renting it out. Mr. Agostino stated that Mr. Bush has said he wants to work with the neighborhood, but he has called him and Mr. Bush never called back. Mr. Agostino stated that this is not in the spirit and intent of the neighborhood and it will be injurious and detrimental to the value of the neighborhood.

Erica Townsend-Dell, 1524 South Owasso Avenue, Tulsa, OK; stated she lives across the street. The Comprehensive Plan states its intent is to preserve and enhance older neighborhoods and all development and activities should be limited to those considered to be residential in nature. It is not clear to her how a bed and breakfast or an Airbnb

falls under the category of improving and rehabbing existing homes. If there were a traditional bed and breakfast it is not clear to her how that fits into an area of stability or an existing neighborhood. A critical point is that the owners are not in residence and that raises her concerns significantly. There are also concerns about noise and the frequency of trash being put out because renters are not concerned about that. There have not been any significant issues as of yet but the point is the residents are routinely engaging with new people. This opens up concerns about people who are only interested in buying investment properties, and coming in buying the variety of homes that are frequently for sale in the Maple Ridge neighborhood. The fact that the house is uninhabited is significant.

Janie Nunes, 1513 South Owasso, Tulsa, OK; stated she recently moved to Tulsa from the Bay area where all this started. That is largely her concern, it was way underground to begin and suddenly it blew up all over the city. The city now has an office that does nothing but specifically addressing the Airbnb, short term rental and the home away issues because it disrupted neighborhoods. People, and a lot of them were internationals, came in and bought property all over the city and hire someone to manage the Airbnb. Her concern is that this will blow up in Tulsa as it did in San Francisco. San Francisco has specific rules about how they work, such as the owner has to live in the house 275 days a year. The whole house can be rented out 90 days a year. The owner has to have \$500,000 in liability insurance, have a business license, register with the city, and a host can only rent their permanent residence. Tulsa could end up with whole neighborhoods that are short term rentals which could be awful for the people that live in those neighborhoods. Her concern is the whole Airbnb model. It needs to have a certain amount of control from the beginning because it did get way out of hand in San Francisco. Ms. Nunes stated that she does not think this request is appropriate for the subject neighborhood because without someone in residence it is dangerous.

Joe Parker, 1601 South Owasso, Tulsa, OK; stated he is the newest resident of the neighborhood, he has only been there about a month. His concern is his investment and he invested a lot in his house. He does not believe having a rental property that does not have long term consistent renters who have a vested interest in the neighborhood improves his property value. He does not want the precedent set that this type of property is acceptable for the neighborhood he lives in. Without someone living full time in the residence, like a traditional bed and breakfast, he has no comfort level that things will be taken care of.

Paul Stephenson, 1537 South Owasso, Tulsa, OK; stated he lives directly to the right of the subject house. He and his wife have lived in the neighborhood for 44 years and raised four children there. When he purchased the house he bought it because it was big even though it was a slum. When they purchased the house most of the front yards were gravel for abandoned cars and houses were literally falling apart. Over the years, very gradually, the neighborhood improved. The historic designation a number of years ago was probably the turning point and Cherry Street coming back has been a big factor. This is a family neighborhood with at least ten small children, older folks, and

young families. This is Mr. Roger's neighborhood. This is what the residence always dreamed it would be. It is not an appropriate place for people coming and going day by day. There have been parties at the subject property and he has observed people under the influence. Mr. Stephenson stated the police have not been called, especially in the incident that was mentioned about the people attempting to get into the back door of the wrong house. The reason the police were not called in that incident is because that family was an African-American family and there was a real concern that something bad could happen. Mr. Stephenson stated the bed and breakfast has continued operating as a business and there was someone there last night which he thinks speaks to the owner's lack of interest in obeying the laws. Mr. Stephenson stated that he met the owner when the house was first purchased, had a conversation with him, told him about what a great place the neighborhood is, and welcomed him to the neighborhood. Mr. Stephenson stated that Mr. Bush told him was going to open a bed and breakfast, and he told Mr. Bush that he needed to check the zoning because he didn't think it would be allowed and Mr. Bush blew him off. Mr. Stephenson stated that he gave Mr. Bush his e-mail address and asked for his and Mr. Bush never gave it to him. Mr. Stephenson stated that at this point he does not think anyone has contact information for Mr. Bush. Mr. Stephenson stated that he has very rarely seen Mr. Bush stay the night in the house, and it is almost always rented out. This is a neighborhood with families and small children. The parking is always an issue even without a bed and breakfast. Mr. Stephenson stated he urges the Board to preserve the character of the neighborhood and deny Mr. Bush's request to operate a business in the residential neighborhood.

Rebuttal:

Paul Bush came forward and stated the main four points that he heard through all of the opposition were, he is not there and he can mitigate that with a camera; the bad signage because a guest accidentally went to the wrong house he can install a larger address sign and light it very well at night to mitigate that. Mr. Bush stated there is a lot of stranger danger and someone is more likely to be a victim of sexual assault by people that they know and feel friendly with, not strangers. Mr. Bush stated that the people that stay at his house must say who they are, where they are from, there is a time and date stamp of the location so they are not likely to commit crimes against anyone in the neighborhood at all. Mr. Bush stated that he has been in full legal standing this entire time because he filed the appeal within the ten days and because the Board meeting minutes were not approved until this meeting they did not go into effect until now so he has not been in violation of any laws. Mr. Bush stated that he wishes to operate it with full regards to his neighbors. He does care about how they feel, but he does not care about being told what to do with his own property. Mr. Bush apologizes if he has seemed nonresponsive but given the last meeting he did not feel that his opinion would be welcomed by anyone or that they would care to understand them. Mr. Bush stated that he thinks the City of Tulsa has a tremendous amount to show the rest of the United States and the world, and this is a way to give people a true feel of what it is like to live in Tulsa. People who stay in a hotel room do not feel the craftsmanship of the homes. The neighbors love the neighborhood for the same reason he loves it, it is a well kept beautiful preserved neighborhood. The neighbor's friends

and family are welcome to stay at his house also. The bed and breakfast is an addition to the neighborhood not a subtraction. This allows friends and neighbors a nice place to stay rather than staying downtown or midtown or somewhere very far away from where they want to be. Mr. Bush thinks this will be a great thing for the City of Tulsa because it shows that Tulsa wants to be on the front of the real estate market. Mr. Bush stated the Bay area was given as an example, look at the housing prices in the Bay area, they are very high and San Francisco makes a lot of revenue off the property taxes. The City of Tulsa can do the same thing. The neighborhood residents do not live in a gated community. For people that are so very afraid of strangers it is very funny that they choose to live in a non-gated community so close to a high crime area that is just north of the interstate. Any random person at any time could walk down the street and commit a crime. Mr. Bush stated that he does not care that the neighbors do not like the fact that he is doing this with the property, and that he has been doing it without their grace, but to him that is the basis of their frustration. Mr. Bush stated he is doing this in compliance with the Board's suggestion. He wants to be in compliance with the City. This is the only option he has to do this so he asks the Board approve his request.

Mr. Van De Wiele asked staff if there would be anything in the HP overlay that would prohibit this use. Ms. Miller stated that HP does not dictate use.

Mr. Van De Wiele stated that Mr. Bush's appeal and his request for a Special Exception are two different things and are two different matters to be considered.

Comments and Questions:

Ms. Back stated that Mr. Bush said the Board recommended that he file for a Special Exception and we, as a Board, do not recommend anything. The Board suggests options but the Board did not recommend anything. Ms. Back stated that she understands Mr. Bush's comments about the neighbors not understanding because she senses that as well. Ms. Back stated that she stays at VRBO's and at bed and breakfast places when she travels and she enjoys them. When she stays at a bed and breakfast the bed and breakfast has a host. There is someone in the house to host the guests that are in the home. The City of Tulsa Code does not have a Vacation Rental By Owner box to place this request in, there is a bed and breakfast box. In her opinion this does not fit the bed and breakfast box.

Mr. White concurred with Ms. Back. He also has a concern about the application being injurious to the neighborhood.

Mr. Van De Wiele agreed with Mr. White. He agrees with Mr. Bush, that ideally it would be nice to know all your neighbors on your street, but it is certainly not a requirement. It is nice that it happens in this block but nothing prohibits a person from being a hermit in his own home. Whether Mr. Bush is available to the neighbors is not part of the issue. Mr. Van De Wiele stated that he wishes the HP overlay had some impact because this seems to be more important to the neighborhood. He cannot support this request.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Back, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond, Flanagan "absent") to **DENY** the request for a Special Exception to permit a Bed and Breakfast (VRBO) on the property (Section 5.020) finding that it will be injurious to the neighborhood; for the following property:

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

22276—Fred Frampton

Action Requested:

Variance to allow an accessory structure to exceed 18 feet in height, exceed one-story, and exceed 10 feet at the top of the top plate (Section 90.090-C); Variance to allow a detached accessory structure to exceed 40% of the floor area of the principal residential structure (Section 45.030-B). **LOCATION:** NW/c of East 16th Street South and South College Avenue East **(CD 4)**

Presentation:

Fred Frampton, 3713 West 45th Street, Tulsa, OK; stated his client has lived in the neighborhood for 16 years. His client has outgrown the house and would like to stay on the property. They have an old garage that they would like to tear down and replace it with a new garage. In the new garage they would like to have a laundry and bathroom downstairs and a living area for their teenage son upstairs. There is a similar structure next door.

Mr. Van De Wiele asked Mr. Frampton if there was any intention on using the garage as a rental. Mr. Frampton stated there is not any intention of using the garage as a rental.

Mr. Van De Wiele asked Mr. Frampton if he was aware of any of the neighbors having any issues with the proposed garage. Mr. Frampton answered that he is not aware of any.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 3-0-0 (Back, Van De Wiele, White "aye"; Back "nay"; no "abstentions"; Bond, Flanagan absent) to **APPROVE** the request for a Variance to allow an accessory structure to exceed 18 feet in height, exceed one-story, and exceed 10 feet at the top of the top plate (Section 90.090-C); Variance to allow a detached accessory structure to exceed 40% of the floor area of the principal residential

structure (Section 45.030-B). The Board has the hardship to be the size of the lot and in this particular neighborhood the lots are smaller than found other residential areas. Also, there are like structures within the neighborhood and abutting the subject property. The approval is per conceptual plans shown on pages 4.11, 4.12 and 4.13 in the agenda packet. 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 21 BLK 2, AVONDALE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

NEW APPLICATIONS

22279—David Lofton

Action Requested:

Variance to reduce the required 25 foot street (front) setback (Section 5.030-A).

LOCATION: 4207 East 7th Street South (**CD 4**)

Presentation:

David Lofton, 4207 East 7th Street, Tulsa, OK; stated he would like to attach a two-car garage to his house and widen the driveway four feet. Mr. Lofton stated that his house already sits too close to the street. The City considers this new construction even though it does not extend past the house it does not meet the Code.

Mr. Van De Wiele asked Mr. Lofton if the existing one car garage in the rear would be torn down. Mr. Lofton stated that it will be torn down after the new garage is built.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 3-0-0 (Back, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond, Flanagan absent) to **APPROVE** the request for a **Variance** to reduce the required 25 foot street (front) setback (Section 5.030-A), per conceptual plans 5.10, 5.11 and 5.12 in the agenda packet. The Board has found the hardship to be that the house is located on a side street and the lot is small. 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:

E 67 LTS 13 & 14 BLK 4, UNIVERSITY PLACE, City of Tulsa, Tulsa County, State of Oklahoma

22282—Eller & Detrich – Andrew Shank

Action Requested:

Special Exception to permit a dynamic display within 200 feet of the R District (Section 60.100-F). **LOCATION:** East of NE/c of South Riverside Drive East and East 101st Street South (**CD 2**)

Presentation:

Andrew Shank, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated this is one of the new pieces of the Code where it says this request for the sign can be done by Special Exception to alter the separation spacing requirement. At the corner of Riverside and 101st there are two banks with three electronic message centers between them. Going toward the east toward the subject property there is a storage center across the street that has an electronic message center and there is a gas station with an electronic message center. The request is already consistent with what already exists in the area. The request is to add the typical message center and it will be to provide information. Mr. Shank stated that he has contacted all the neighbors within 300 feet of the proposed electronic message center and held a neighborhood meeting which no one attended. Mr. Shank stated there was telephone call from OETA asking what the request was for but they had no problem with it.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Back, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond, Flanagan absent) to **APPROVE** the request for a **Special Exception** to permit a dynamic display within 200 feet of the R District (Section 60.100-F), per conceptual plan on page 6.15 in the agenda packet. The Board finds that the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 3 BLK 1, JENKS GRADE CENTER, RIVER CREEK VILLAGE, City of Tulsa, Tulsa County, State of Oklahoma

22286—Simon Reyes

Action Requested:

Special Exception to permit a Commercial/Building Service Use in the CS District (Section 15.020). **LOCATION:** 4702 East Apache Street North (**CD 1**)

Presentation:

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

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required at this time.

22287—Encinos 3D – Christian Ortiz

Action Requested:

Variance to allow a neon border sign to be visible within 50 feet of the R District (Section 60.040). **LOCATION:** 6100 South Sheridan Road East (**CD 9**)

Presentation:

Christian Ortiz, Encinos 3D Custom Products, 9810 East 58th Street, Tulsa, OK; stated this sign request is actually just for a neon border on the subject building. The neon border that is within 50 feet of the R District are the sections located on the patio and the west side of the top section on the building. The border only emits ½ of a candle foot light; at two feet the illumination is 70 which is well below the normal lighting. The assisted living facility is 21.6 feet away from the closest corner of the building's patio that is adjacent to the property line. Mr. Ortiz stated this border will not cause a detriment to the area. Mr. Ortiz stated that the design of the subject building is a 1950s style and that creates a hardship for his client if he were not able to have the proposed border for the building.

Mr. Van De Wiele asked Mr. Ortiz about what was upstairs creating the square part of the building. Mr. Ortiz stated it is a banquet room and the offices for the restaurant.

Mr. Van De Wiele stated that his concern is that the red glow would be visible from the north windows of the building behind the subject building. Mr. Ortiz stated that building sits farther back toward the south than the farthest north wall of the residential building. Mr. Ortiz stated there is no neon proposed for the back wall so the only light being emitting will be in the opposite direction. The neon border is only on three sides of the subject building and there will be no neon on the west side of the building. The neon ambient light being emitted will only reach out 6'-2" or .09% of lumens.

Ms. Back asked Mr. Ortiz at what percent are the lumens at 1/10 of light of the sign. Mr. Ortiz stated it would be approximately five feet.

Mr. Van De Wiele asked Mr. Ortiz if the neon was in a channel. Mr. Ortiz answered affirmatively and stated the light will actually concentrated within the channel.

Mr. Van De Wiele asked Mr. Ortiz if the exterior of the building is changing. Mr. Ortiz stated the exterior of the building has changed from what it was originally. Though the

only thing that has changed besides paint color is the entrance that used to have stair steps has now been squared off and made straight and the concrete patio in the front.

Mr. Ortiz stated that when the subject project was started and filed with the City there were no permitting requirements on a neon border. Mr. Ortiz stated that is another hardship for the project. When he designed the building he might have taken a different approach if he had known about the neon border issues.

Ms. Moyer stated that under the new Code the definition of a sign expanded to include neon border signage or anything that draws attention to the business. The Code update was in January 2016.

Mr. Van De Wiele stated that he does not have an aesthetic problem with what the applicant wants to do, but the Board has to find a hardship that is not self imposed or a financial hardship. Mr. Ortiz stated that when Mr. Tally purchased the building in July 2016 he had to do a lot combination and everything around the building is zoned CS except for the small residential section in the corner. Mr. Ortiz stated the subject building is an older building and closer to the property line than it should be. Mr. Ortiz stated that because the building was existing Mr. Tally has a hardship in that situation because he could dictate where the building was sitting on the lot prior to his purchase.

Mr. Swiney stated that the unusual shape of the building and the unusual location of the building or placement of the building plus the antique nature of the design would qualify as a hardship.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 3-0-0 (Back, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond, Flanagan absent) to **APPROVE** the request for a **Variance** to allow a neon border sign to be visible within 50 feet of the R District (Section 60.040). The Board has found the hardship to be the positioning of the existing structure on the subject lot and the same positioning of the structure on the adjoining RM-3 lot to the west. The approval is per conceptual plan shown on pages 10.15, 10.16, 10.17 and the exhibit submitted today by the applicant. 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:

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

22288—Donald Swope

Action Requested:

Variance to allow a detached accessory building to exceed 500 square feet in size (Section 45.030). **LOCATION:** 21 South 66th Avenue East (**CD 3**)

Presentation:

Donald Swope, 21 South 66th East Avenue, Tulsa, OK; stated he purchased the subject house in approximately 2000. The house was dilapidated and needed lots of work. He rebuilt the house including the wiring. He would like to have the building to place his boat, four wheelers and tools inside.

Mr. Van De Wiele asked Mr. Swope about the existing storage building that is in the rear yard. Mr. Swope stated that it will all be taken down.

Mr. Swope stated that it is not the best neighborhood any longer and a person cannot leave anything outside. He is surrounded on three sides by commercial property and he does see a problem with his request.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 3-0-0 (Back, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond, Flanagan absent) to **APPROVE** the request for a **Variance** to allow a detached accessory building to exceed 500 square feet in size (Section 45.030). The Board has found the hardship to be that the lot is surrounded by commercial zoned or commercially used property, some of which are also zoned in the R District. The approval is per conceptual plans 11.7, 11.8, 11.9 and 11.10 and the other storage buildings on the subject property will be removed. 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 22 BLK B; LT 23 BLK B, CREST VIEW ESTATES, City of Tulsa, Tulsa County, State of Oklahoma

22295—KKT Architects, Inc. – Nicole Watts

Action Requested:

Special Exception to permit a school and accessory uses in the R District (Section 5.020-F). **LOCATION:** Between East Independence Avenue North & East Latimer Street North and Between North M. L. King, Jr. Boulevard West & North Main Street (**CD 1**)

Presentation:

Nicole Watts, KKT Architects, 2200 South Utica Place, Suite 200, Tulsa, OK; stated TPS is in the process of expanding and remodeling Emerson Elementary. In the past the Board granted a Special Exception to allow the existing school be in a residential zone. OSU has leased the five acres south of Jasper to the school for growth and the

school will be building into those five acres. The five acres are zoned residential thus the Special Exception request.

Mr. Van De Wiele asked if Jasper was going to be closed. Ms. Watts answered affirmatively and stated that the case is going through Court now to get the street vacated.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 3-0-0 (Back, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond, Flanagan absent) to **APPROVE** the request for a Special Exception to permit a school and accessory uses in the R District (Section 5.020-F). 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:

Lots 1-12, Block 19, Lots 1-12, Block 20, Lots 1-5 and Lots 18-22, Block 21, Burgess Hill Addition; Lots 1-24, Block 2, Lots 1-24, Block 3, and Lots 1-24, Block 4, Kirkpatrick Heights and vacated East Jasper Street Right of Way between Main Street and MLK Jr. Blvd., City of Tulsa, Tulsa County, State of Oklahoma

22286—Simon Reyes

Action Requested:

Special Exception to permit a Commercial/Building Service Use in the CS District (Section 15.020). **LOCATION:** 4702 East Apache Street North (**CD 1**)

Presentation:

The applicant was not present.

Mr. Van De Wiele asked staff if they knew what the applicant was going to use the property for. Ms. Miller stated that building service use is typically HVAC companies, or plumbing or electrical. The applicant stated he wanted an office and storage space for company vehicles and equipment. The building permit looked at the use closely and determined it is that use and will also be used as temporary storage of items and materials for customers whose properties are undergoing repair and/or restoration.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 3-0-0 (Back, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond, Flanagan absent) to **CONTINUE** the request for a Special Exception to permit a Commercial/Building Service Use in the CS District (Section 15.020) to the August 8, 2017 Board of Adjustment meeting; for the following property:

LTS 1 THRU 7 LESS PRT LT 1 BEG 25E NWC LT 1 TH CRV LF 39.25 N25 E25 POB BLK 2, SMITHDALE, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

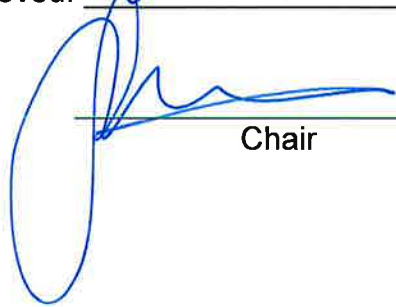
BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 3:10 p.m.

Date approved: _____

8/8/17



Chair