

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1191
Tuesday, September 12, 2017, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

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

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on Thursday, September 7, 2017, at 10:33 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, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the August 22, 2017 Board of Adjustment meeting (No. 1190).

NEW APPLICATIONS

22315—Janet Fadler-Davie

Action Requested:

Special Exception to allow a Bed and Breakfast (Airbnb) in the CBD District (Section 15.020). **LOCATION:** 808 East 3rd Street South **(CD 4)**

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The application has been withdrawn by the applicant.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:

PRT LT 12 BEG SWC LT 12 TH E90 N50 W15 SWLY TO PT S39 W59 SWLY TO POB BLK 12, HODGE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22320—Donald & Dee Ann Short

Action Requested:

Special Exception to allow a Bed and Breakfast (short-term rental) in an R District (Section 5.020). **LOCATION:** 1716 East 13th Street South **(CD 4)**

Presentation:

The applicant requests a continuance to the September 26, 2017 Board of Adjustment meeting as they are out of town.

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, Flanagan, Van De Wiele, White "aye"; no "nays"; "abstaining"; Bond absent) to **CONTINUE** the request for a Special Exception to allow a Bed and Breakfast (short-term rental) in an R District (Section 5.020) to the September 26, 2017 Board of Adjustment meeting; for the following property:

LT 9 BLK 14, TERRACE DRIVE ADDN RESUB B6 & L1-3 B4, 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 time. Mr. Bond is absent because he is on National

Guard duty in Houston because of the hurricane, but it will still require an affirmative vote of the three remaining four members to approve any motion. 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. The audience nodded their understanding and no one came forward to request a continuance.

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Mr. Van De Wiele stated there are several VRBO, Airbnb or Bed & Breakfast applications on the agenda today. There has been one continued and one withdrawn which will help shorten the meeting somewhat. In the recent past these cases have taken an extremely long period of time each. On these cases the Board is going to limit the time that is allocated to both the applicant and to the parties here to speak either in favor or in opposition. The time limits that will be put in place are as follows:

- ❖ The applicant will have ten minutes to make his or her presentation
- ❖ Those that wish to speak either in favor of or in opposition will be limited to a 15 minutes time but also two minutes apiece
- ❖ Please do not repeat what other neighbors are saying
- ❖ At the end of that time period the Board will give the applicant five more minutes for a rebuttal
- ❖ The Board will then go into discussion and act on the application
- ❖ The Board will be keeping time and the speaking party will be given a warning before their time is up and please be respectful of the fact that there are a lot of people here and everybody wants to be heard

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UNFINISHED BUSINESS

22285—Valorey Totten

Action Requested:

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

Presentation:

Valorey Totten, 17217 East Marshall Street, Tulsa, OK; stated her granddaughter runs a small business on the subject site, selling dirt, sand and rock. She loads the material with a little skid loader. The property is located in a residential area but it does border 193rd. There are 20,000 cars a day that drive past the subject location. She would like to keep selling the dirt. She will put the product inside an enclosed structure and take down the sign. She did not realize this was a violation.

Mr. Van De Wiele asked Ms. Totten if the granddaughter lived on the site. Ms. Totten stated that she does not; she and the granddaughter both live at a different location but she owns the property on both sides of the street.

Mr. Van De Wiele asked Ms. Totten if anyone lived on the subject property. Ms. Totten stated she had a tenant; an employee of her construction company that lives there for security purposes. Mr. Van De Wiele asked staff if that still made this a home occupation. Mr. Wilkerson stated the Code is clear; it is someone that wishes to live in the house that is working in that occupation.

Mr. Van De Wiele stated that he believes this an application that the Board would not have the authority to approve. He suggests this case be continued so the applicant could have conversation with INCOG staff.

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, Flanagan, Van De Wiele, White "aye"; no "nays"; "abstaining"; Bond absent) to **CONTINUE** the request for a Special Exception to allow a Type 2 Home Occupation in an RS-1 District to permit a landscaping business (Section 45.100) to the September 26, 2017 Board of Adjustment meeting; for the following property:

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

22300—Sally Perry

Action Requested:

Special Exception to permit a Bed and Breakfast on an RS-3 zoned property; Special Exception to allow a bed and breakfast to have on-site parties/events in an RS-3 District (Section 5.020). **LOCATION:** 4138 South Owasso Avenue East (CD 9)

Presentation:

Sally Perry, 4142 South Owasso Avenue, Tulsa, OK; stated the bed and breakfast is to be located at 4138 South Owasso Avenue which is next door to her residence. So it is not like it will be an unsupervised property. One opposition letter brought up the fact that there are plenty of bars in the area and she is not interested in providing that type of party. She would like to provide parties like a wedding luncheon for small wedding parties, anniversary parties, birthday parties, or a small wedding. Ms. Perry stated that the subject property is a one bedroom house and at most it could accommodate three

or four people to stay. She would like to have two parties a month and at least two cars can park in the driveway. Ms. Perry stated that another letter opposition expressed concerns about traffic and strangers being in the neighborhood, i.e., pedophiles. Ms. Perry stated that recently she sold a house and there was no screening of the person that purchased the house. People move in and out of a neighborhood everyday and there is no way of knowing if that person is a sexual predator or a pedophile. Ms. Perry stated that she cannot not think that because the house would be an Airbnb that it would be a greater problem than what naturally occurs in a neighborhood. Ms. Perry stated that it has been mentioned that the house may sit empty for long periods of time which could harm to the neighborhood, but there is a house in the neighborhood that has been empty for approximately eight years and it has caused no harm to anyone. Ms. Perry stated that if her house sat for long periods of time as an Airbnb she won't be doing the Airbnb for a long time so she does not think that an empty house is an issue. Ms. Perry stated that the gentleman that wrote the letter stating businesses don't belong in neighborhoods is running a business out of his house so that like the kettle calling the pot black. Ms. Perry stated that if she thought this would harm her neighborhood she wouldn't be doing it because she lives in the neighborhood and right next door to the proposed Airbnb. It is her desire to be something that raises the neighborhood up not bring it down.

Mr. Van De Wiele stated the application states there will not be more than 30 guests at any one event so where would they park. Ms. Perry stated that 90% of the time she didn't think there would be more than two cars in the driveway.

Mr. Van De Wiele asked Ms. Perry if she was currently offering the house on Airbnb. Ms. Perry stated that she was not. Ms. Perry stated that she has waited to come before the Board before offering the house to the public.

Interested Parties:

Louis Horton, 4207 South Owasso, Tulsa, OK; stated that his daughter and grandson live at this address and he has owned the house for 18 years but it is not his residence. He is concerned because there are a lot of children walking on the street, there are people in wheel chairs that go back and forth to WalMart, and he does think it is a good place for a business. Mr. Horton stated that he more worried about what is not written than what is written. Mr. Horton stated there are always cars on the street, especially where the subject house is located.

Paul Harrison, 4148 South Owasso Avenue, Tulsa, OK; stated he is in favor of the proposed Airbnb. Mr. Harrison stated that he has a large family and when they come to Tulsa they need a place to stay, and they could stay two doors away. This is a quiet neighborhood even though there is a lot of traffic, but he does not see how this will add more traffic to the neighborhood.

Rebuttal:

Sally Perry came forward and stated that she too is concerned about the people that walk on the street. It would be nice if there were sidewalks in the neighborhood, and

she does not know if that is something that is planned, but people walk in the neighborhood everyday and do so safely. Ms. Perry stated that if the parties are an issue she would withdraw that portion of her request.

Mr. Van De Wiele asked Ms. Perry if she had an idea of how many rentals were anticipated in a month. Ms. Perry stated that she does not know this, but if the rental was for one weekend a month for three days it would not be economical. She is aiming to attract the business traveler. There will be no pets allowed. There will be no smoking allowed. She wants the traveler that is here for business and wants to be in the subject area because of the restaurants and the trails. She would also offer it as a guest house to the neighbors for the family and friends to stay. Ms. Perry stated that she does not know how successful it will be but if it is not very successful she will be changing the house back to a long term rental.

Comments and Questions:

Ms. Back stated that she likes the fact that a neighbor that lives close to the subject property came to speak in support of the request. Ms. Back thinks Ms. Perry has done this right; she came to the Board first to ask permission. Ms. Back stated she could support the bed and breakfast but take the special events request out or take the number of people to attend the special events to reduce the number of cars that would be on the street. She would also suggest that a one year time limitation be placed on the request since the Code may change.

Mr. Van De Wiele asked staff if one year would be sufficient time for the Code change because he knows things move more slowly in government. Mr. Wilkerson stated there is discussion about how to handle bed and breakfast requests but he would not say with confidence that the Code change would happen in a year.

Mr. Van De Wiele agreed with Ms. Back. Mr. Van De Wiele stated that he cannot support the on-site party events because this part of Tulsa has narrow streets and the lots are smaller. He likes the fact the applicant lives next door and that alleviates some concerns. He can support the Airbnb with a time limitation of two years for review.

Mr. Flanagan stated that he does not have any issues with the bed and breakfast request and he would support a two year time limitation.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan Van De Wiele, White "aye"; no "nays"; "abstaining"; Bond absent) to **APPROVE** the request for a Special Exception to permit a Bed and Breakfast (short term lodging/rental) in an R district (Section 5.020) and to **DENY** the Special Exception to allow on-site events. The approval is subject to the condition of a two year time limitation from today's date through September 11, 2019. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

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NEW APPLICATIONS

22304—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to allow a Trade School in the CS District (Section 15.020).

LOCATION: 3910 East 51st Street South **(CD 9)**

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated he represents Accurate Environmental who are the owners of the subject property. Recently the zoning was changed from OL to CS. This site is the former long time Spring Clinic and the Warren Medical Complex for the Warren Clinic. It sat vacant for about two years or so. The subject site was primarily as a medical laboratory and that is what attracted Accurate Environmental to the site. There is a screening fence between the subject building and the neighborhood. The building has had extensive improvements as a medical lab. Accurate Environmental purchased the property assuming they could use the site for their training uses and that is to train people how to use laboratory facilities, test water and other public things. Accurate Environmental does a lot of testing for the City of Tulsa, Rural Water Districts, the waste water treatment plant, etc. Interestingly enough this is a trade school in the zoning code. Accurate Environmental is training water engineers, so to get the use approved the zoning was changed to CS. There will be no new improvements to the existing site.

Mr. Van De Wiele asked Mr. Reynolds if there would be anything held outdoors. Mr. Reynolds stated that everything will be indoors.

Ms. Back asked Mr. Reynolds if there would be future testing of hazardous chemicals or anything like that at the site. Mr. Reynolds stated that there would be none that he is aware of and the facility will be less than what was there before.

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, Flanagan Van De Wiele, White "aye"; no "nays"; "abstaining"; Bond absent) to **APPROVE** the request for a Special Exception to allow a Trade School in the CS District (Section 15.020). 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:

N.190 OF W 270 OF E 430 NE NE NW LESS N 50 FOR ST SEC 33 19 13, SPRINGER CLINIC PRT RSB L1 B1 WOODLAND TERR RSB N25 L5 SIOUX PARK, SIOUX PARK, City of Tulsa, Tulsa County, State of Oklahoma

22305—Marian Olson

Action Requested:

Special Exception to allow a Bed and Breakfast (short-term rental) in an R District (Section 5.020). **LOCATION:** 28 South Florence Avenue East **(CD 4)**

Presentation:

Marian Olson, 32 South Florence Avenue, Tulsa, OK; stated the subject site is next door to her and she owns both properties. The subject detached house is 806 square feet and she would like to use it as a short term rental or a length of stay fewer than 30 days. There would only be one registrant at any time, there would be no meals or other food served as part of the rent. There is a kitchen for the occupants to use but there would be no cooking in the bedrooms. There would be no signs and no events held. Because the house sits at the back of the lot there is a long driveway so there would be no on-street parking. Ms. Olson stated that since she lives next door she will be close enough to know what is going on at all times and she could immediately take care of any situation should one arise.

Interested Parties:

Thomas Balboa, 4103 East 23rd Street, Tulsa, OK; stated he not in attendance for this item but it is the same thing as this one. It seems that there are a lot of these coming before the Board. He moved here from Boston, and Boston was having the same issue and he has done a lot of research on the topic. It is very lucrative to do a short term venue as opposed to long term rentals but it does have detrimental effects by using the overall housing inventory city wide which increase rent for families that are interested in renting long term versus people coming to use one essentially as a hotel or motel. Mr. Balboa stated that he lived next to one that was known as a Vacation Rental By Owner before Airbnb started. There were parties, motorcycle groups that would come in at 2:00 AM in the morning, and a lot of trash left behind when the guests left. With an Airbnb the only thing a potential guests needs is a credit card and a telephone number because there is no identity check. Mr. Balboa stated that had he known about this he would not have moved into the neighborhood and he thinks this contributes to the lowering the housing inventory. Plus he thinks these places need to pay their proper taxes the same as everyone else.

Mr. Van De Wiele stated the tax question is part of what the City is looking into in addition to whether to allow it, where to allow it, if to allow it all as well the tax

implications are being considered. This Board does not decide what to tax or what the tax should be but it is being researched.

Julie McKinney, 2164 South Sandusky, Tulsa, OK; stated she knows in researching all of this that in the statutes 5% lodging tax does apply to Bed and Breakfast so she did not think that was a question.

Mr. Van De Wiele stated that he knows the City and City Council are researching this; it is not his decision but it is something that is being looked into.

Rebuttal:

Marian Olson came forward and stated that while she in the process of remodeling the subject house, and it was near the end, the property manager put out the “for rent” sign. The house was available for rent as a long term rental for approximately six months and the only interest that was expressed was from someone that could not afford the deposit. This house is not going to take something out of the City inventory. Another thing to consider is that the subject house is very close to the highway and the traffic noise can be heard at the house because there is no buffer between the highway and the subject house so short term renters would not be thinking about that noise like a long term renter. Ms. Olson thinks it is a good thing for the neighborhood to keep the house occupied.

Comments and Questions:

Mr. White stated that he is concerned about the parking and the possible noise from the subject house.

Ms. Back stated she likes the fact that the house is set back and has a long driveway for guest parking. She would support this request for this particular neighborhood with a two year limitation.

Mr. Van De Wiele stated he is not a big fan of these applications generally. He thinks there needs to be a fix to the Zoning Code, whatever that would be. Treating these applications as a Bed and Breakfast is the closest thing this Board has at this time but he thinks there should be a harder look at these to decide if there is a better to regulate them if they are regulated at all. Mr. Van De Wiele thinks that most of these have been going largely unnoticed and without causing problems in most of the locations, it is just that now there is a brighter light being focused on these facilities so the Board is seeing more of them. Mr. Van De Wiele stated that he thinks that in this location, on the edge of the neighborhood almost immediately adjacent to Admiral and First Street and the service road and highway it lends itself to this type of use. With Ms. Olson living right next door tends to mitigate some of the concerns that the Board has heard in other applications so he would support this request in this location for a two year time period to see if there is a change in the pulse of the City.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; "abstaining"; Bond absent) to **APPROVE** the request for a Special Exception to allow a Bed and Breakfast (short-term rental) in an R District (Section 5.020), subject to the following condition of a two year time limit from today's date to September 11, 2019. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 6 BLK 7, UNIVERSITY PARK, City of Tulsa, Tulsa County, State of Oklahoma

22306—Stephen Lassiter

Action Requested:

Special Exception to allow a Bed and Breakfast (short-term rental) in an R District (Section 5.020). **LOCATION:** 1628 South Cheyenne Avenue West (**CD 4**)

Presentation:

Stephen Lassiter, 1628 South Cheyenne Avenue, Tulsa, OK; stated he is the owner and resident of the subject property. He is an experienced landlord because he already renting out the garage apartment on a long term basis. He is looking to rent the garage apartment on a short term basis. Mr. Lassiter thinks this will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Prior to applying for the Special Exception he spoke to his neighbors and if he couldn't speak with them he left information. Everyone he did speak to was supportive of the request. As an owner occupant he takes seriously who is going to stay in his backyard because he has children. He encouraged everyone he spoke with to contact him or his wife 24/7 if there ever were any issues. He will not allow parties or loud noise. He anticipates most guests will arrive in one car which will be parked on the street, which is the same arrangement he has with his long term tenant. He has done long term rental for two years and there have been no issues with any neighbor. Mr. Lassiter stated that he would like to request a five year time limit for his rental unlike the previous applicants that received a two year time limitation.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that he thinks this is one of the easiest cases the Board has heard thus far because the applicant is living on the same property. With it being truly onsite he support a longer time limitation but not longer than five years.

Ms. Back agreed with Mr. Van De Wiele. Ms. Back stated that with this house being in the neighborhood that it is in is good fit because these houses were built to have the rentals or living quarters above the garage. She thinks that the two year time limit on

this particular case, as the Board hears each one separately, was not agreeable and believes the five year time limitation is better fit.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; "abstaining"; Bond absent) to **APPROVE** the request for a Special Exception to allow a Bed and Breakfast (short-term rental) in an R District (Section 5.020), subject to the following condition of a time limit of five years starting from today's date to end midnight on September 11, 2022. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 7 BK 8, STONEBRAKER HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22310—Shane Hood

Action Requested:

Special Exception to allow for an Outdoor Commercial Assembly use in the CBD District (Section 15.020, Table 15-2). **LOCATION:** 326 East 1st Street South **(CD 4)**

Presentation:

Shane Hood, 815 East 3rd Street, Tulsa, OK; stated this request is for a patio space for a bar and it is similar to a Special Exception he has presented to the Board before. The proposed patio is 13'-0" x 35'-0" which is about 455 square feet and the interior square footage for the bar itself 1,855 square feet. The patio will be on a separate piece of property.

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, Flanagan Van De Wiele, White "aye"; no "nays"; "abstaining"; Bond absent) to **APPROVE** the request for a Special Exception to allow for an Outdoor Commercial Assembly use in the CBD District (Section 15.020, Table 15-2), subject to conceptual plan 7.10 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:

E25 W65 LT 1 BLK 86, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

22311—Darcia Alexander

Action Requested:

Special Exception to allow a Group/Assisted Living Facility in the RS-3 District (Section 5.020). **LOCATION:** 5527 South 74th Avenue East (**CD 7**)

Presentation:

Darcia Alexandra, 7115 South Darlington, Tulsa, OK; stated the request is for a residential care home. She knows her neighbor's concerns are the traffic flow, pedestrians walking especially the children, and a hindrance for the emergency services vehicles because of only one entrance to 74th Street. Ms. Alexandra presented a poster exhibit to show the subject property in relation to the neighborhood and the photos show that the corner of 57th Street always has residents parked on the street. The subject property has a driveway, a garage and a carport and she would not affect the normal flow of the neighborhood traffic pattern. Ms. Alexandra stated that she would have 12 hours shifts for employees. There would be no signs that would take away the normal appearance of the community. Ms. Alexandra stated she is caring for the elderly and it is not an Oxford home. There would be 24 hours supervision for the elderly. Ms. Alexandra stated that her home would be classified as ADL, assisting with daily living, which means she would help the elderly with their medications and their meals. There will be no one in the house with profound disabilities because it is a residential care home. There will be no smoking and no pets. The staff will have to submit their fingerprints to the state for background checks, and be approved and certified by the State. Ms. Alexandra stated that she has been a nurse for over 25 years and an administrator for a residential care home and assisted living for about five years. In all those years she has never had any disciplinary actions toward her or her license. Ms. Alexandra stated that some of the neighbors have stated that the house is not up to code and she did not want to prematurely make any modifications to the house before coming to the Board of Adjustment for approval. The residents that will be staying at the home will not be driving because the elderly she desires to help will be in their 80s and 90s.

Mr. Van De Wiele asked Ms. Alexandra if she was aware that she would need to erect a six foot tall fence between her and the neighbors. Ms. Alexandra stated that she is aware of that requirement and has already made provisions for that.

Interested Parties:

Kelly Ferguson, 5410 South 75th East Avenue, Tulsa, OK; stated she is speaking on behalf of ten plus residents in Southern Plaza which is right next to the subject property. She purchased her house eight years ago as a first time buyer in this well known and established housing addition which is zoned for RS-3 and has been since its inception in the 1960s. This is a peaceful and family oriented neighborhood and many of the

neighbors have been in their homes for over 40 years. Everyone is very concerned about this request to allow a group/assisted living facility in the neighborhood which would allow up to six elderly residents and provide care for them known as Bethesda Residential Care Home. She and her fellow neighbors strongly oppose this request to permit the conversion of the subject house to become a commercial endeavor which contradicts the RS-3 zoning. It would be wrong to approve this request thus penalizing the whole housing addition to permit a commercial enterprise which would impact property values negatively and undermine the peace and quiet of the established neighborhood. The City of Tulsa and the Board of Adjustment need to be aware of the traffic issues and the safety this will cause, because with this type of facility there would be cars coming and going at all hours of the day and they would be parked in the street. As noted, 74th Street is a through street to 57th Street which places traffic at the entrance of Memorial Middle School, and parents' park on 74th Street to drop off or pick up their children each day. The subject property faces west at the exit of 55th Place which is the only outlet for those residents to exit onto 57th Street which will cause major traffic problems, risk for children walking to and from school, and emergency vehicles entering onto 74th Street from 57th Street. There are a multitude of assisted living facilities in Tulsa and surrounding areas providing easy access, posing no traffic hazards and are not intruding into a residential neighborhood. Surely this person could find a more suitable location for a commercial enterprise endeavor. If this type of requests if approved for one, anyone can do it and the result would be that two residential neighborhoods, Southern Plaza and Sungate, would no longer be a single residential neighborhood. Ms. Ferguson asked the Board to please reject the Special Exception.

Charilan Edwards, 7236 East 55th Place, Tulsa, OK; stated her concern is the house on the corner of 55th Place and 74th Street is extremely busy with teenagers, because she has had to wait for them to be moved so she could get through on the street. Ms. Edwards stated that one time an ambulance that had been called for her had to wait on traffic at that same intersection before they could get to her. This is an extremely congested street. Ms. Edwards stated that she is not opposed to the house itself, it is the traffic that concerns her.

Bill Yeagle, 5511 South 74th East Avenue, Tulsa, OK; stated he is not for or against the request but he does have questions. He has been a volunteer for Habitat for Humanity for about 28 years and as he understands it some of the rooms do not qualify for bedrooms. Habitat personnel have told him that a bedroom must be at least 9'-0" x 9'-0". He is concerned with the building codes. Also, he believes the house would have to have 3'-0" doors and the existing doors are not 3'-0" doors. Mr. Yeagle stated that he believes the hallway also must be 42" in width but he does not think the existing hallway is 42" in width. These are things that concern him because the house needs to be brought up to City code standards.

Mr. Van De Wiele asked Mr. Wilkerson if there was a building code review in the process of an application. Mr. Wilkerson stated it is not part of what this application is

but there is always going to be an occupancy permit for this type of application. The applicant will need to go to the building permit office to get the details sorted out.

Mr. Van De Wiele asked Mr. Wilkerson if Yeagle's concerns would be reviewed by an administrative officer in the process. Mr. Wilkerson answered affirmatively and stated the State will also have standards that need to be met.

Ashley Hayes, 5510 South 76th East Avenue, Tulsa, OK; stated she is in agreement with Ms. Alexandra's endeavor. As a parent of children that attend Salk Elementary they walk to the school on the streets that have been mentioned. She has never observed any traffic on 74th Street but has observed traffic on 76th Street because of the stop sign. Ms. Hayes stated that she is a hotel director and knows the house will have to meet State approval and will always be watched. There is a comfort knowing that there will always be an eye on the house. Ms. Hayes stated that operating a 12 hour shift will be no different than anyone in the neighborhood traveling to and from work, or coming for lunch. There are cars that park on 74th Street, more so on the corner of 74th Street, and she does not believe that traffic is a concern.

Rebuttal:

Darcia Alexandra came forward and stated she does care about the neighbors and their concerns. She will always try to keep everything that has been said in mind. Ms. Alexandra stated that her desire and passion is to care for the elderly, and wants to do so in a residential setting. She does not want to bring down the values of houses in the neighborhood. She lived in the neighborhood for four years as a renter and she has come back to that neighborhood as a home owner in Sungen. Ms. Alexandra believes the traffic will be no more than the regular neighborhood traffic. Ms. Alexandra stated that she cares about her neighborhood just as much as the people living there, she has a desire to give back.

Comments and Questions:

Mr. Van De Wiele stated that he used to live in the neighborhood on the south side. There are a lot of children that live in the area and walk to school. He is not concerned from a traffic standpoint but his concerns are the emergency vehicle traffic because he has lived across the street from an elderly couple who called ambulances once or twice a month. The subject house being located in the middle of the neighborhood is also a concern for him. Mr. Van De Wiele stated that he has a concern about this being a small nursing home or retirement home in the middle of the neighborhood.

Ms. Back stated that Ms. Alexandra has already stated that she would not have residents with profound disabilities so she does think that there would be elder care in the latter years. We need these services for the elderly and she would be inclined to approve the request with some conditions.

Mr. Flanagan stated that he does not have an issue with the request. As far as the interior of the house that will be monitored and regulated by the State. Mr. Flanagan stated that he will support the request.

Mr. White stated that he too has no issues with the request because all of his concerns have been addressed.

Board Action:

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Flanagan, Van De Wiele, White "aye"; no "nays"; "abstaining"; none absent) to **APPROVE** the request for a Special Exception to allow a Group/Assisted Living Facility in the RS-3 District (Section 5.020), subject to the following conditions: the maximum number of residents will be per State license with no more than six residents per Board approval. There is no signage allowed on the house to advertise the use. There is to be no on street parking for employees. The house is to be certified by the State to operate as a residential care home. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 5 BLK 16, SUNGATE ADDN, SOUTHERN PLAZA B1-7, City of Tulsa, Tulsa County, State of Oklahoma

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

22312—Lonnie Listenbee

Action Requested:

Special Exception to allow for Vehicle Sales and Rentals in the CS District (Section 15.020, Table 15-2). **LOCATION:** 6424 East Pine Street North (**CD 3**)

Presentation:

Lonnie Listenbee, 1801 East 46th Street North, Tulsa, OK; stated he has been in the car business since 2002. The subject property was previously an auto mechanic shop and an old Texaco station.

Mr. Van De Wiele asked Mr. Listenbee how many cars he would have for sale at any one time. Mr. Listenbee stated that the lot would hold 15 to 20 cars. Mr. Van De Wiele asked Mr. Listenbee if there would be any inoperable vehicles. Mr. Listenbee stated there would be inoperable vehicles if he purchased them in that condition, but he would try to get them running.

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

Ms. Back asked Mr. Listenbee if there would be any cars stored inside that will be for sale or will all the cars for sale be stored outside. Mr. Listenbee stated that it would

depend on the vehicle; if it is a high dollar vehicle it would be taken in and out of the building.

Mr. Van De Wiele asked Mr. Listenbee how many employees he would have working for him. Mr. Listenbee stated that it will be just him working the lot.

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, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond "absent") to **APPROVE** the request for a Special Exception to allow for Vehicle Sales and Rentals in the CS District (Section 15.020, Table 15-2), per the conceptual plan 9.9 of the agenda packet. The number of cars allowed to be displayed outside would be a maximum of 15 cars for sale, and inoperable cars are to be stored inside. 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:

E150 LT 1 BLK 1, EXCHANGE ACRES, City of Tulsa, Tulsa County, State of Oklahoma

22314—Roger McKee

Action Requested:

Variance to reduce the number of required parking spaces of an office use to two spaces (Section 55.020). **LOCATION:** 1920 East 6th Street South **(CD 4)**

Ms. Back recused and left the meeting at 2:52 P.M.

Presentation:

Shane Hood, 815 East 3rd Street, Tulsa, OK; stated the subject building was built in 1952 and built to the interior lot lines therefore there is no room for off street parking on the property. There is enough room for two on street parking along 6th Street. There is a parking lot located at 1924 East 6th Street which to the east of the subject site. Previously the property to the east was approved for a Variance for off street parking in March 1991. The business that will be in the building is a CPA's office with four employees and expect only two or three clients during tax season.

Mr. Van De Wiele asked Mr. Hood if the building was built all the way to the rear property line too. Mr. Hood stated that it is not. Mr. Van De Wiele asked if there was parking in the rear. Mr. Hood stated there is no parking in the rear.

Mr. Van De Wiele asked staff if the two parking spaces that were being advertised for this request were on street parking. Mr. Wilkerson answered affirmatively and stated that the Zoning Code allows on street parking as long as there is parking allowed on the street.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 3-0-1 (Flanagan, Van De Wiele, White "aye"; no "nays"; Back "abstaining"; Bond absent) to **APPROVE** the request for a **Variance** to reduce the number of required parking spaces of an office use from nine spaces to two spaces (Section 55.020), per conceptual plan 10.10 of the agenda packet. The Board finds the hardship to be the age of the building and because of the age it has been built all the way to the property line. 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 3 BLK 4, ABDO'S ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Back re-entered the meeting at 2:55 P.M.

22315—Janet Fadler-Davie

Action Requested:

Special Exception to allow a Bed and Breakfast (Airbnb) in the CBD District (Section 15.020). **LOCATION:** 808 East 3rd Street South **(CD 4)**

Presentation:

The application has been withdrawn.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

PRT LT 12 BEG SWC LT 12 TH E90 N50 W15 SWLY TO PT S39 W59 SWLY TO POB BLK 12, HODGE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22316—Acura Neon Signs

Action Requested:

Variance to allow a dynamic display sign within 200 feet of an R District (Section 60.100-F). **LOCATION:** 2432 East 51st Street South **(CD 9)**

Mr. Van De Wiele stated that from a disclosure point he wanted to make a note for the record, this case relates to the new Parkhill Liquor and Wine store. He has, in the past, represented Mr. Parkhill on his prior location. Mr. Van De Wiele stated he does not represent him on this location so he does not believe that is a conflict.

Ms. Back stated that she has worked with Wallace Engineering on this particular project.

Ms. Back recused herself and left the meeting at 2:56 P.M.

Presentation:

Robert Getchell, 1100 OneOk Plaza, 100 West 5th Street, Tulsa, OK; stated this application is for a dynamic display sign on the north face of the subject building that is being constructed on the property. The sign is located on the farthest northwest corner

of the property and faces north away from any residential districts. Mr. Getchell does not believe the sign will have any impact on the property to the south of the liquor store because it will not be visible to the neighborhood. The lot is a long narrow lot and the liquor store is located as close to the front of the property as possible. The hardship is the fact that the sign could not be located anywhere else on the subject property and he does not believe the literal enforcement of the Code is necessary because the sign has been located on the property and facing in such way as it should not have any impact on the surrounding area. The conditions for this property is unique because it is sandwiched in between other commercial zoned properties with the residential district acting as a sliver between the office and the uses to the east and the other commercial uses to the west. The applicant did not create the hardships because the property has been zoned before the property was purchased. The sign will not alter the essential character of the neighborhood and there is no detriment to the public good.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 3-0-1 (Flanagan, Van De Wiele, White "aye"; no "nays"; Back "abstaining"; Bond absent) to **APPROVE** the request for a Variance to allow a dynamic display sign within 200 feet of an R District (Section 60.100-F), per conceptual plan 12.10 of the agenda packet noting it is of the north elevation. The Board finds the hardship to be the sign location and that location is the best possible place in relation to the structure. 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:

Lot 1 Block 1, SPANISH GARDENS ADDN, PARKHILL, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Back re-entered the meeting at 3:06 P.M.

22317—Jeremy Grodhaus

Action Requested:

Variance to reduce the front and rear building setback requirements in the RS-4 District (Section 5.030-A); Variance of the minimum open space per unit requirement; Variance of the required lot area and land area per dwelling unit to permit a lot-split (Section 5.030-A). **LOCATION:** 630 North Cheyenne West (**CD 1**)

Presentation:

Jeremy Grodhaus, 210 West Golden Street, Tulsa, OK; stated the setback requirements for the subject property were approved in 2000, in case BOA-18861, so he thinks that could be pulled from the request.

Mr. Van De Wiele asked staff about the approved setback requirements. Ms. Moyer stated that in 2000 the Board previously approved the front and rear setbacks for the existing house on the lot, and that approval still stands. However, the approval for the reduction of the open space and those related to the bulk-and-area requirements related to the actual lot split expired because the lot split was never approved by TMAPC. After discussion with staff it was decided that as a part of the current request the applicant did not need the reduction of the setback because it had previously been approved by the Board.

Mr. Van De Wiele asked staff if the first Variance regarding reducing the front and rear setback the Board does not need to act on it? Ms. Moyer answered affirmatively. Mr. Van De Wiele asked Ms. Moyer if the Board needed to act on the open space request. Ms. Moyer stated that request does need to be acted on because the previous approval has expired because the lot split was never approved.

Mr. Wilkerson asked the applicant if the lot split had never been filed. Mr. Grodhaus stated that he did not know because that was under the previous owner and was not aware of it until he filed this application.

Mr. Van De Wiele asked how the Variances would expire. Ms. Moyer stated the Variances were to allow a lot split, however, the actual lot split was never approved.

Mr. Grodhaus stated the property is about 100 years old and it is a single lot with two single family residences with two unique addresses and two separate connections to

services. He does not want to change the use of the property or anything about it; he would just like to be able to obtain a lot split. Tract B would be the larger lot with the larger house and the smaller house on the west side. The subject property is located in a historic preservation district. Both houses are in constructional order.

Interested Parties:

Dani Widell, 1140 North Denver, Tulsa, OK; stated she lives about six blocks away from the subject property and owns six houses less than a mile from the subject property. Ms. Widell stated that she supports this request and understands the challenges of owning a lot with two houses. She supports bringing everything up to code.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to reduce the front setback of Tract A from 20 feet to 12.6 feet; Variance to reduce the rear setback of Tract A from 20 feet to 3.3 feet; Variance of the minimum open space per unit from 2,500 square feet to 1,501 square feet for Tract A; Variance of the lot area and lot area per dwelling unit requirement from 5,500 square feet to 2,722 square feet for Tract A to permit a lot-split (Section 5.030), subject to conceptual plan 13.12. The Board finds the hardship to be the age of the area being well over 100 years old and this approval cleans up a non-conformity within the area. 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:

S4.3 LT 3 & N48 LT 4 BLK 5, NORTH TULSA, City of Tulsa, Tulsa County, State of Oklahoma

22318—Dani Widell

Action Requested:

Special Exception to allow a duplex in the RS-4 District (Section 5.020); Variance to reduce the side yard setback to 4 feet; Variance to reduce the required lot area and lot area per unit requirement; Variance to reduce the lot width requirement for a duplex use in the RS-4 District (Section 5.030). **LOCATION:** 1432 North Denver Avenue West **(CD 1)**

Presentation:

William Widell, 1140 North Denver, Tulsa, OK; stated he and his wife purchased the subject property in January 2016 from the City's demolition list. He and his wife have restored the existing house on the property for his mother-in-law and brother-in-law, who has physical special needs and has always lived with his mother-in-law. His brother-in-law expressed a desire to live independently and restored the house with living spaces upstairs and downstairs to give him an opportunity to live on his own but still be highly supervised. The house is still a family house because there is no division of the upstairs and downstairs but there is a kitchen upstairs. When it became apparent that his brother-in-law was not capable of living on his own he placed the house on the market as a rental. Currently there are three teachers for America who live in the house while they teach in the local community. Within a half block of the subject house is an apartment complex and within a block and a half there is a duplex that was recently approved, and there has been no difficulty with those two units. There are mixed uses in the neighborhood as stated in the agenda packet. Mr. Widell stated there is a deep parking drive on the north side of the house that is big enough for a 30 yard dumpster and two cars behind that so it is sufficient for tenant needs. Mr. Widell believes the issues that the neighbors have expressed concerns about are not going to be a problem regardless if the subject house becomes a duplex.

Mr. Van De Wiele asked Mr. Widell if he had increased the footprint of the house during the renovations. Mr. Widell stated that he had not. Mr. Van De Wiele asked if the Variance requests to reduce the side yard and the lot area were a result of the potential duplex use. Mr. Widell answered affirmatively. Mr. Van De Wiele asked Mr. Widell if the overall footprint and the how the house sits on the lot has changed any. Mr. Widell stated that it has not.

Dani Widell, 1140 North Denver, Tulsa, OK; presented a spread sheet in opposition to the letter of opposition with several signatures attached showing that there are not only single family homes in the area. Ms. Widell also provided a copy of an appraisal on the subject property showing that the property value has increased.

Interested Parties:

Robert Smith, 1420 North Denver Avenue, Tulsa, OK; stated he has lived in his house for 21 years and he has concerns about the proposal. He owns the two lots next to the subject house and his house. Mr. Smith stated that the house was looking very bad at one time and the Widell's did a good job of renovating the house. Mr. Smith stated that while the renovations were going on he spoke to the Widell's and he was under the impression that it would be another family moving into the neighborhood, but since then there are now three people living in the house and it looks like he has a party going on at his house all the time because of where they park. Mr. Smith stated that the tenants drive onto his property in order to get into the driveway in the back yard of the subject house. Mr. Smith stated that he does not understand the Variance request for the four feet and the Board explained the setback requirements. Mr. Smith stated that in his block of Denver the houses are single family residences with no living quarters in the rear of the houses, and the houses that were mentioned with living quarters in the rear are closer to the Brady mansion area. Mr. Smith stated that if the proposal is approved it allows one into the neighborhood and once one is in it opens the gate for others to come into the neighborhood.

Mike Posey, 1303 North Denver Avenue, Tulsa, OK; stated the subject area is about five blocks, from Pine to Brady Heights, and Brady Heights is a whole different world. The subject area is lower income, cheaper houses and is a different world. If this proposal is approved there are other vacant lots or other houses that are for sale and this would open the neighborhood up to more duplexes which would create more driveways with more traffic. The street is a dangerous street already because Denver is a busy street. He and the neighbors are concerned about the value of their houses and worried about this request allowing the way for duplexes or apartments to come into the neighborhood. Mr. Posey presented a picture stating that it is of six cars parked in the street and around the subject house on a Sunday morning. Mr. Posey stated that he owns eight properties in the neighborhood and people usually research what can be done with the property before the purchase, not do it then try to get it changed.

Rebuttal:

Dani and William Widell came forward. Mr. Widell stated that there is only one driveway onto the subject property and no one needs to drive onto someone else's property to drive into the driveway.

Mr. Van De Wiele asked Mr. Widell about the picture of the six cars presented to the Board, and asked Mr. Widell where his tenants parked. Mr. Widell stated that on the south side of the house is the neighbors driveway but his tenants may park in the street.

Mr. Van De Wiele asked Mr. Widell how many lived in the house currently. Ms. Widell stated there are three teachers and one dog living in the house. Ms. Widell stated there are three roommates living in the house next door with the couple that own the house next door so she assumes that one car driveway cannot accommodate all the cars from that household.

Mr. Van De Wiele asked the Widell's if they currently have plans to turn the subject house into a duplex in the future, and if so why the request before the Board today? Ms. Widell stated that an appraisal was done on the subject property for a mortgage and the appraiser wants the zoning updated because the house has two kitchens, two bathrooms, and two exterior doors. Ms. Widell stated the house is currently rented as one unit with three occupants listed on the lease. There is an opening between the upstairs and the downstairs that can be closed. Mr. Van De Wiele asked where the separate entrance is located. Ms. Widell stated that it is on the driveway side. The front door is located immediately in front of the stairs going up and there is a door on the driveway side of the house.

Mr. Flanagan asked Ms. Widell if upon entering the front door you can go into the living room for the downstairs or upstairs to where the master bedroom is located. Ms. Widell stated that the house currently has two upstairs bedrooms, an upstairs laundry and an upstairs bathroom and two downstairs bedrooms, an downstairs laundry and a downstairs bathroom.

Mr. Van De Wiele asked if the house had been used a duplex at one point. Ms. Widell stated that she cannot say that either way because when they purchased the house it was hard to tell what the house was due to the condition. Ms. Widell stated there was no plumbing, no electrical, no AC, there was nothing.

Robert Smith came forward stated that the tenants do use his property to drive around other cars parked in the driveway. The vehicles that are shown in the picture that was presented are the vehicles of the tenants of the subject house. Those tenants also have friends that stay over so it adds on to the problem. The neighborhood has always been a residential area and the subject house has always been a single family residence.

Mike Posey came forward and stated that the subject house does have two brand new front doors and two brand new mailboxes on the front.

Comments and Questions:

Mr. Van De Wiele stated there are lots of letters in support of the proposal which shows the neighbors are appreciative of the Widell's taking something that was probably falling down and rehabbing it making it a beautiful home. Mr. Van De Wiele stated that he is having a hard time with the hardship, but if this were an existing duplex use he thinks the Board could find a hardship based on the width of the lot because it is an older platted lot. The other duplex and multi-family use in the neighborhood is not extremely far away but it is on the outside of this neighborhood.

Ms. Back stated that she too is having a hard time with the hardship because it cannot be self imposed and it cannot be financial. It is a difficult situation because it was the applicant's original intention to help family members.

Mr. Flanagan stated what the applicant has done is incredible and beautiful but the Board has to find a hardship and he cannot find one that is not self imposed.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond "absent") to **DENY** the request for a Special Exception to allow a duplex in the RS-4 District (Section 5.020); Variance to reduce the side yard setback to 4 feet; Variance to reduce the required lot area for a duplex use from 9,000 square feet to 7,448 square feet and reduce the lot area per unit requirement from 4,500 square feet to 3,724 square feet; Variance to reduce the lot width requirement for a duplex use in the RS-4 District from 75 feet to 50 feet (Section 5.030); for the following property:

LOT 5 BLK 2, HOBBS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22319—Terri Willms

Action Requested:

Special Exception to allow a Bed and Breakfast (short-term rental) in an R District (Section 5.020). **LOCATION:** 4413 East 23rd Street South **(CD 4)**

Presentation:

Terri and Brian Willms, 9758 South Granite Avenue, Tulsa, OK; stated she purchased the subject property at the end of 2016 and she purchased it as an investment property. She and her husband have updated the interior of the house and brought it up to Code for the electrical and plumbing and appliances and also spruced up the exterior with paint and landscaping. These updates have increased the resale value of the house and ultimately the surrounding houses in the neighborhood. A Bed and Breakfast is not exactly what they want to do with the property nor do they want to rent it like an Airbnb but they do wish to use the house as a vacation rental. The house will not be used for parties or events and purposely did not install a pool or hot tub that would encourage outdoor activities. There will be no sign in the yard to advertise the property. The house does sleep one to nine people, or only six adults. She and her husband will be asking \$200.00 a night to attract responsible customers. They would mainly like to attract vendors and tenders for all the events that happen at the Expo Square and the Pavilion. Ms. Willms stated that she believes the driveway would accommodate 11 cars so there is ample parking. The VRBO uses "Home Away" as a website to advertise the property and they have high standards for guests and there are significant deposits for insurance if there are damages done to the property, and they track the taxes and notify you quarterly so the taxes are paid on time. The neighbors have her telephone number should there be a problem with guests. Ms. Willms stated that she and her husband live less than seven miles from the subject property and they are there two or three times a week so they can set out the trash, mow the yard, and clean the house. They have not rented the house prior to seeking this approval because their desire is to follow the law. Ms. Willms stated that she had met with many of the neighbors and she likes them and

wants a good relationship with them. She has communicated her intentions to the neighbors directly behind, across and next to the subject house with the exception of one house and it is empty and not being maintained. Ms. Willms stated that she and her husband like the sweet quaint neighborhood and they are invested in it. Ms. Willms stated that she hopes her neighbors better understand what they want to do and the turn of a lease will have no bearing on how the house will be maintained. Short term leasing will require her constant attention and constant presence.

Interested Parties:

Brian Loalbo, 2180 South Urbana, Tulsa, OK; stated he is in attendance on behalf of the neighbors in the Mayo Meadow neighborhood. There was a petition submitted to the Board by those neighbors. Mr. Loalbo agreed that the people that purchased the subject property are very nice individuals. Everyone that signed the petition live on Sandusky, Urbana, Toledo and 23rd Street; there are 113 signatures. This is not an arbitrary petition; these neighbors have been in their house for one year up to 56 years, all of which are in opposition to this request. Mr. Loalbo presented two hand written letters to the Board from concerned neighbors.

Julie McKinney, 2164 South Sandusky, Tulsa, OK; stated she purchased her house in 1983. The houses in the neighborhood are pretty and have long term landscape; it is a Mr. Rogers neighborhood. Ms. McKinney read a letter from a concerned neighbor that opposes the request. Ms. McKinney stated that what makes this neighborhood a target for an investor like the Willms is the proximity to so much in Tulsa. It took her seven minutes to get from her house to City Hall so it makes it accessible to all Expo events and all downtown events. The fabric of society today creates anonymity afforded to people that use their credit cards, the Airbnb and their cell phones, the neighbors will not know who those people are and they are very worried about that. The Willms will probably do their very best but there are going to be people that get in that will affect the quiet enjoyment of the homes and their values. Ms. McKinney stated that she walks by that house many times and now wonders if she will need to put a taser in her pocket because she will not know who is in the house. The people in the neighborhood are working people and they like their sleep. Ms. McKinney stated that she believes this will be a target house for people attending concerts, the fairgrounds, and places that close very late. Ms. McKinney stated the house has a turquoise door and the mailing address used on South Granite is owned by The Turquoise Door, LLC company so she wonders if the turquoise door on the subject house means it will be a property that is owned by a limited liability company.

James Bricken, 4414 East 23rd Street, Tulsa, OK; stated he lives across the street from the subject property. Mr. Bricken stated that he thinks he has been a pioneer of this industry, Airbnb, in Santa Fe, New Mexico in 2003 through 2007 he had the only bed and kitchen that was connected to a duplex but separated, and he charged \$200.00 a night. If the applicant thinks because they are charging that much money has more integrity or more standards for the environment they are in or even around that they can affect that is nominal thinking. He has lived in New York City, Los Angeles, Tel Aviv

and all over the world and he does not want to have any introduction for what he has left from traveling all over the world.

Sharon Hackl, 2174 South Toledo Avenue, Tulsa, OK; stated she lives two houses to the north of the subject property. Ms. Hackl stated the applicant mentioned that they intentionally did not install a pool or a Jacuzzi in; there is absolutely no room to put those in. In the neighborhood, corner houses do not have a back yard and the fence for the back yard of this house is about three feet from the house so essentially their back yard is the neighbor's backyard. Ms. Hackl stated that she has stayed in many Airbnbs and VRBOs and she is always amazed at how people will do damage to the property even with a security deposit. She has experiences where parents have rented them out for their children to have a party. She has been in places where adults come in, have a party and trash the place. This is something that she does not want in her neighborhood and it is not as if the applicant can contain the activity to their yard, even with the best of intentions.

Deborah Battese, 2131 South Toledo Avenue, Tulsa, OK; stated that she believes it will compromise the value of their properties and she has her doubts about what is going to happen.

Tom Falabella, 4103 East 23rd Street, Tulsa, OK; stated he lives about eight houses away from the subject property and he also lives on a corner lot so he can attest that the property lines are very close. Mr. Falabella stated that the house next to him is already one of these and when the guests sit on the back porch they are practically in his back yard. He did not know the house was like that when he moved in because the County website only lists the owner so he did not know it was not her primary residence, and he would not want to see this happen to someone else. He would not have chosen to move into the house if he had known what was next door.

George Hulsey, 4515 East 23rd Street, Tulsa, OK; stated he has lived in his house almost 49 years. This is a great neighborhood and people are safe in it; the women push their buggies down the street and the elderly 92 year old lady next door still walks daily. That is the kind of neighborhood we live in and we do not think we have any room for a bed and breakfast, because those people fly in and fly out with no interest in the neighborhood. The guests will not put in any effort to keep the yard beautiful. He personally spoke with the people that live on each side of the subject property and no one wants the bed and breakfast in the neighborhood.

Rebuttal:

Terri Willms came forward she appreciates the people in the neighborhood but she still believes there is a lot of misinformation out there. She does not want parking to be an issue and the driveway can park nine cars. Only six adults can stay in the house so it would not be any different than if someone had company for a weekend. Ms. Willms stated that she has erected a privacy fence in the back yard so the guests could not look out to see what is going on in neighbor's back yards. There is truly no reason to be in the backyard, it is not a draw at all. There are already several VRBOs and Airbnbs in

the neighborhood, in fact the Board approved one in July for this neighborhood. A short term rental is not going to be any different than any other rental. The difference if you get a bad neighbor in the neighborhood on a lease, you have a bad neighbor for a year. Lots of residents go to events and come home late so you cannot hold that as a reason to not let this happen. Ms. Willms stated this is not a business in the fact that it is like a frontage store for retail where people come or go a hundred times a day. The rental on these type of properties are normally Friday through Sunday. She wants the entirety of the neighborhood to stay the same and she will continue to do everything possible to keep it that way. She will not hesitate to take action on any problem that should arise, and she would the Board to consider it approving this request the same as others have been approved in the area.

Comments and Questions:

Ms. Back stated that the property Ms. Willms is referring to that was approved in June 2017 had no opposition that she can remember. Ms. Back thinks the applicant has done a beautiful job with the house and it is a beautiful neighborhood, but she believes the neighbors have a good strong point.

Mr. Flanagan stated that he is confused because out of 18 cases on the agenda six of them are for bed and breakfast requests. The Board could certainly use some guidance. He voted in favor of the house in June and he would be inclined to support this one.

Mr. White stated that when neighbors are in that degree of agreement he tends to not support the request. He feels this would be injurious to the neighborhood which is one of the primary criteria for approval.

Mr. Van De Wiele stated that he is of the same opinion as Mr. White. The case that was approved in June is in relatively close proximity but it certainly is a different location because it is more on the edge of the neighborhood and this house is in the middle of the neighborhood. Not that is a standard that the Board can hold to, but it does tend to make those properties more likely to be rentals than owner occupied. Mr. Van De Wiele believes that most of these were flying under the radar until they caught the attention of the neighborhood inspectors, and most of those people did not know they needed a Special Exception. Mr. Van De Wiele stated that he has a problem with this case. The other cases that the Board has approved, with the exception of one, have all been where someone lives immediately next door or across the street. Living seven miles away does not put the sharp focus of an owner that is invested in the neighborhood with a business property. With this property being across the street from the fairgrounds it will be used a lot and, ultimately, he cannot support this request.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-1-0 (Back, Van De Wiele, White "aye"; Flanagan "nay"; no "abstentions"; Bond "absent") to **DENY** the request for a Special Exception to allow a Bed and Breakfast (short-term rental) in an R District (Section 5.020), finding that it will be injurious to the neighborhood; for the following property:

LT 14 BLK 7, MAYO MEADOW, City of Tulsa, Tulsa County, State of Oklahoma

22321—Jack Arnold

Action Requested:

Special Exception to allow the driveway width to exceed 30 feet in width on an RE zoned lot (Section 55.090-F3). **LOCATION:** 2521 East 34th Street South **(CD 9)**

Presentation:

Jack Arnold, 7310 South Yale, Tulsa, OK; stated this to allow a driveway approach width for a three car garage.

Mr. Van De Wiele asked Mr. Arnold if the driveway meets Code in regards to the curb cut. Mr. Arnold answered affirmatively.

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, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to allow the driveway width to exceed 30 feet in width on an RE zoned lot (Section 55.090-F3), subject to conceptual plan 17.11 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:

LOT-3, BLK-2, TIMBERLAND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22322—Lisa Guten

Action Requested:

Verification of the 300 foot spacing requirement between family day care homes located on the same street (Section 45.070). **LOCATION:** 7411 South 95th Avenue East **(CD 7)**

Presentation:

Lisa Guten, 7411 South 95th East Avenue, Tulsa, OK; stated she would to open a day care and small school in her home for infants to six year olds. She will be licensed through the state of Oklahoma. She will only have seven children in attendance.

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, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing 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; for the following property:

LT 24 BLK 1, WOODLANDS, THE, City of Tulsa, Tulsa County, State of Oklahoma

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OTHER BUSINESS

None.

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NEW BUSINESS

None.

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BOARD MEMBER COMMENTS

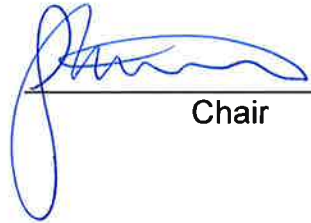
Ms. Back asked that City Council please help the Board with a resolution to the Bed and Breakfast dilemma.

Mr. Van De Wiele asked that staff speak to Matt about checking the sound system for the room because people have made comments today and in the past about not being able to hear clearly.

Mr. Van De Wiele announced that Mr. White has sent his letter of resignation to the Mayor. Mr. Van De Wiele thanked Mr. White for all his help on the Board and the personal guidance he has given to Board members.

There being no further business, the meeting adjourned at 4:28 p.m.

Date approved: 10/10/17



Chair