

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1193  
Tuesday, October 10, 2017, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2<sup>nd</sup> Street

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Van De Wiele, Chair Flanagan, Secretary Back Bond	White, Vice Chair	Miller Moye Sparger Ulmer	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, October 5, 2017, at 2:54 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 1:05 p.m.

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

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**MINUTES**

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the **Minutes** of the September 12, 2017 Board of Adjustment meeting (No. 1191).

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Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present at this time. Mr. White is absent with a personal matter. When there are less than the five members present it will still require three of the four Board members to approve any motion that is made. When there is less than a full Board the Board will entertain a request to continue agenda items to a later meeting date, at which all five members of the Board can be present. Additionally on agenda Item #3 Ms. Back will be recusing so there will be only three Board members to vote. 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.

**Jerry Hine**, 14 South 69<sup>th</sup> East Avenue, Tulsa, OK; asked if he understood correctly, that no matter the size of the Board three members needed to approve any motion. Mr. Van De Wiele answered affirmatively. Mr. Hine stated he would like to request a continuance for his case, item #6 on the agenda.

**Theresa Landers**, 6930 East 7<sup>th</sup> Street, Tulsa, OK; stated that she would be agreeable to a continuance in this case.

Mr. Van De Wiele stated that agenda Item #6, BOA-22338, will be continued to the Board of Adjustment meeting on October 24, 2017.

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### **NEW APPLICATIONS**

#### **22338 – Jerry Hine**

##### **Action Requested:**

Variance to allow the combined total of detached accessory structures to exceed 500 square feet (Section 45.030-B). **LOCATION:** 14 South 69<sup>th</sup> Avenue East (**CD 3**)

##### **Presentation:**

The applicant has requested a continuance.

##### **Interested Parties:**

There was one interested party present who had no objection to the continuance.

##### **Comments and Questions:**

None.

##### **Board Action:**

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **CONTINUE** the request for a Variance to allow the combined total of detached accessory structures to exceed 500 square feet (Section 45.030-B) to the October 24, 2017 Board of Adjustment meeting; for the following property:

**LT 7 BLK M; N 80 LT 10 BLK M, CRESTVIEW ESTATES SECOND, City of Tulsa, Tulsa County, State of Oklahoma**

**22336—Josh Miller**

**Action Requested:**

Special Exception to allow a Parks and Recreation use in an R district to permit a temporary accessory parking lot for the Gathering Place (Section 5.020); Variance to allow a non-all-weather parking surface (Section 50.090-F). **LOCATION:** South of the SE/c of East 31<sup>st</sup> Street South and Riverside Drive **(CD 9)**

**Presentation:**

**Dena Rankins**, 3148 South Cincinnati Avenue, Tulsa, OK; asked for a continuance on this case.

Mr. Van De Wiele asked Ms. Rankins if she was in favor of the request or opposed to the request. Ms. Rankins stated that she is opposed.

Mr. Van De Wiele stated that typically this right is given to the applicant and if an interested party is opposed to a request it makes it harder for something to be passed. There must be three out of four today otherwise there has to be three out of five at the next meeting. So, this is usually an opportunity the Board affords to the applicant, but the Board will certainly entertain this request. Mr. Van De Wiele stated he has never been in favor of an opposing party granting a continuance for that reason. Frankly, having fewer Board members is better for the interested party cause than having more Board members.

Ms. Rankins stated the issue is being there has not been a lot of time to discuss this request. This is over 1,600 parking spaces proposed and those that are proposing the parking spaces refer to it as a turf lot. The neighbors who just recently received the notice have many concerns that they would like to address to come up with realistic responses to what the neighbors think would be the effect of putting a turf lot of 1,600 spaces behind the neighborhood houses. There has not been time for the neighbors to prepare for this.

Mr. Van De Wiele suggested that the applicant and the neighbors step out into the hall for a discussion on the request and then the Board will discuss a continuance when this item comes up on the agenda.

**Board Action:**

No Board action required at this time; for the following property:

**PRT GOV LT 1 & PRT NW NE BEG 24.7S & 410.6E NWC NW NE TH W481.57 SE303.97 TH ON RT CRV 236.89 SE104.61 E371.67 N635.3 POB SEC 24 19 12 6.22ACS; 12 and BLK 1 3200 RIVERSIDE DRIVE ADDN SUB L9-10 PEEBLES SECOND ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

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## UNFINISHED BUSINESS

### 22330—Mohammad Ashad

#### Action Requested:

Variance to reduce the street (rear) setback from South Sheridan Road (Section 5.030). LOCATION: 8312 South 65<sup>th</sup> Place East **(CD 8)**

#### Presentation:

**Kenny Martin**, 411 North Forrest Street, Jenks, OK; stated that he and his client have met with the neighbors and proved to be beneficial. Mr. Martin stated that his client now has full approval from the HOA and Mr. Martin submitted the original approval letter from the HOA and the new approval e-mail from the HOA.

#### Interested Parties:

There were no interested parties present.

#### Comments and Questions:

None.

#### Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **APPROVE** the request for a Variance to reduce the street (rear) setback from South Sheridan Road (Section 5.030), subject to conceptual plan 2.8 in the agenda packet. The Board finds the hardship to be the geographical layout of the house on a cul-de-sac. 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 2 BLK 1, CRESCENT, THE, City of Tulsa, Tulsa County, State of Oklahoma**

**22333—Wallace Engineering – Jim Beach**

**Action Requested:**

Variance of maximum building height of a field house from 35 feet to 49 feet (Section 5.030). **LOCATION:** 4929 North Peoria Avenue East **(CD 1)**

**Ms. Back recused and left the meeting at 1:19 P.M.**

**Presentation:**

**Scott Rodehaver**, Wallace Engineering, 200 East Brady, Tulsa, OK; stated he is filling for Mr. Beach who no longer works for Wallace Engineering. The proposed new building is a multi-use field house with arena seating. This is a customary use to the existing school. The proposed field house will be 48'-8" high and is necessary for the continuing growth of the school programs. The proposed building will be sited adjacent to the existing building along the Peoria frontage. The existing school auditorium is approximately 56 feet high and is immediately adjacent to that and to the north. With the higher existing building and the new building situated similarly along the Peoria frontage the proposed field house would not alter the essential character of the neighborhood nor substantially impair the use or development of the adjacent property nor cause substantial detriment to the public good or impair the purposes, spirit or intent of the zoning code or comprehensive plan. A 35-foot building height would not provide sufficient clearance under the ceiling to accommodate a basketball court with a center hanging score board and arena style seating. Due to the long-standing school use on the site, the property being small and uniquely shaped it was chosen to locate the field house along Peoria next to the existing structure of similar height.

Mr. Van De Wiele asked Mr. Rodehaver what is the building located directly south of the property. Mr. Rodehaver stated the building is not on the school property but it is zoned commercial. Mr. Van De Wiele asked Mr. Rodehaver if he had any objections from those property owners. Mr. Rodehaver stated that he did not think so. Mr. Rodehaver stated the architect and a representative of the school are present today should the Board have any questions for them.

**David Reed**, 4144 Dogwood Lane, Sapulpa, OK; came forward for questions from the Board.

Mr. Van De Wiele asked if there was a parking issue with the proposed arena style building. Mr. Reed stated there will be additional parking, 122 spaces, added south of the football field which replaces the parking that is being displaced by the field house.

Mr. Van De Wiele asked if the new arena facility added a large parking load requirement. Mr. Reed stated there are approved permits for the proposed field house and he believes the way the City looked at that was that it is non-simultaneous use and that parking that was there is adequate.

Ms. Miller stated that in looking through the case file the Letter of Deficiency does not describe a parking deficit. Mr. Reed stated the football stadium actually has a higher seating capacity than the basketball arena. Ms. Miller stated that since the parking is not in the Letter of Deficiency she does not know if the City looked at the requirements. Mr. Reed stated the City directed him to relocate the parking spaces that were being displaced by the footprint of the proposed building on the site, but they did not address any overall issues regarding the parking.

Ms. Miller stated that staff will touch base with the Permit Office, which she knows does not help right now, to check on the parking.

Mr. Bond asked Mr. Reed if he knew how many total parking spaces there are on the site. Mr. Reed stated that he did not.

Ms. Miller stated there are reductions in the Code for parking requirements and this is zoned RS-3 but she does not know if that would be enough to offset any parking requirements.

Ms. Blank stated the only thing before the Board today is the Variance to allow the maximum building height.

Mr. Van De Wiele asked Ms. Miller to look into the parking requirements and let him know later. Ms. Miller agreed.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **APPROVE** the request for a Variance of maximum building height of a field house from 35 feet to 49 feet (Section 5.030), subject to conceptual plans 3.10, 3.11, 3.12 in the agenda packet and the plan submitted today. The Board finds the hardship to be the existing use of the facility. 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:

**S825 OF W1320 OF N/2 SW SEC 7 20 13, CLEMISHIRE HGTS, NORTHRIDGE ADDN, LONGVIEW PARK ADDN, BUENOS VISTA SUB, SUNSHINE ACRES ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**Ms. Back re-entered the meeting at 1:31 P.M.**

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**NEW APPLICATIONS**

Mr. Van De Wiele stated that agenda Item #4, BOA-22336, is up to be heard. He asked Ms. Ulmer to go into the hallway to see if everyone was ready for the case to be heard. For now, the Board will continue with Item #5, BOA-22337.

**22337—Kevin McNamara**

**Action Requested:**

Variance to reduce the 25-foot (street) front setback to permit the existing house (Section 5.030). **LOCATION:** 4311 South Darlington Avenue East (**CD 5**)

**Presentation:**

**Kevin McNamara**, 4311 South Darlington Avenue, Tulsa, OK; stated the house stands as originally constructed in 1957. The front of the garage stands ten feet over the building line and he believes this was done for a number of reasons though he cannot say exactly. He believes it was because of the grading of the site because he thinks the site drops off too quickly in the rear for a normal size structure to fit behind the building line.

Mr. Van De Wiele asked Mr. McNamara if he was adding onto anything. Mr. McNamara stated that he was not. Mr. Van De Wiele asked if this was in connection to a sale or a refinance. Mr. McNamara stated that it was not. Mr. McNamara stated that he purchased the house in August and he was told this would need to be addressed about three days before closing.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **APPROVE** the request for a Variance to reduce the 25-foot (street) front setback to permit the existing house (Section 5.030), subject to conceptual plan 5.7 in the agenda packet. The Board finds the hardship to be the pre-existing non-conformity. 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 11 BLK 5, MAX CAMPBELL FIFTH ADDN B3-6, City of Tulsa, Tulsa County, State of Oklahoma**

Ms. Miller stated that the parties in Case #BOA-22336 be moved to the end of the agenda; they are still in discussion.

**22339—Kirk Livingstone**

**Action Requested:**

Special Exception to allow a Commercial/Assembly Indoor Entertainment use (large capacity over 250) in a CS District to allow a fitness center (Section 15.020).

**LOCATION:** 7990 East 51<sup>st</sup> Street South (**CD 7**)

**Presentation:**

**Kirk Livingstone**, 1259 South 800 East, Orem, Utah; stated this request is for a proposed large fitness facility to be located in the former Food Pyramid. The space has been vacant for quite some time and he would revitalize the space for a fitness center.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **APPROVE** the request for a Special Exception to allow a Commercial/Assembly Indoor Entertainment use (large capacity over 250) in a CS District to allow a fitness center (Section 15.020). The space is to be solely used as a fitness center. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**PRT LT 1 BEG 723.82E NWC LT 1 TH E141 S200 E210 S415.15 W299.68 NW159.42 N304.51 E106 N302 POB LESS E10 THEREOF FOR ST BLK 13 4.64AC, SOUTHERN PLAZA B8-15, City of Tulsa, Tulsa County, State of Oklahoma**

**22340—Randy Branstetter**

**Action Requested:**

Special Exception to allow a fence or wall height greater than 4 feet in the street setback area (Section 45.080). **LOCATION:** 2730 East 33<sup>rd</sup> Street South (**CD 9**)

**Presentation:**

**Randy Branstetter**, 1708 West 119<sup>th</sup> Place South, Jenks, OK; stated he is building a house for the Roberts and the front entry gate system is over four feet tall. The walls would be about seven feet tall and the columns would be about 7'-9" tall. The actual gate would be about six foot tall. There is approximately 40 feet of the entry feature that will be over four feet. There is a house two doors away that has a masonry wall that is

out in the building setback so there would not be any effect to the character of the neighborhood. There are several houses in the area that has landscaping that is 10 or 20 feet tall that is also in the building setback creating the same visual affect. The house is on the end of the street and the proposed system is very a unique system.

Mr. Van De Wiele asked staff if the street setback is the entire west side or is it truly the last few feet on the north end of the west side of the property. Ms. Moyer stated that she believes it is the entire west side of the property that falls within the 25-foot setback area. Mr. Van De Wiele asked Mr. Branstetter if there was going to be a seven-foot wall all the way down the west side of the property. Mr. Branstetter stated there would not; there will be a six foot tall fence along the west side.

Mr. Flanagan asked Mr. Branstetter if the neighbor to the north would have access to their driveway. Mr. Branstetter answered affirmatively. The Roberts have allowed 26 feet along their shared property line for access to the neighbor's property.

Mr. Van De Wiele asked Mr. Branstetter if there had been conversations with the next door neighbor. Mr. Branstetter stated there have been multiple conversations and the neighbor is okay with the proposal.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Flanagan Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **APPROVE** the request for a Special Exception to allow a fence or wall height greater than 4 feet in the street setback area (Section 45.080), subject to the conceptual plan 8.10 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**BEG 1320S & 1056E OF NWC NE NW TH N161 E264 S161 W264 POB SEC 20 19 13, TIMBERLAND ADDN, TIMBERLAND ADDN RESUB L1-3 B1, CHARLANE EST AMD B1-2, City of Tulsa, Tulsa County, State of Oklahoma**

## **22341—Stephen Schuller**

### **Action Requested:**

Variance to permit a swimming pool/spa as well as a retaining wall to be constructed within the side and rear yard setback and in the planned street right-of-way; Variance to permit a swimming pool/spa to be constructed within the street setbacks along South St. Louis Avenue and Swan Drive (Section 90-090).

**LOCATION:** 1767 South St. Louis Avenue East (**CD 4**)

### **Presentation:**

**Stephen Schuller**, 100 West 5<sup>th</sup> Street, Suite 1100, Tulsa, OK; stated his clients have owned the subject property for several years. The existing retaining wall was constructed by the owner's pool contractor a couple of years ago without the requisite permits and without their knowledge that the permits were not obtained and that there were code sections violated. The City issued a stop work order and for two years the owners have been working with the City on how to resolve the problem. The wall on the street frontage will be coming down almost in its entirety except for the portion that is in the back that is along a neighbor's property. There had been a short garden tie retaining wall along the curb for many, many years and a stone retaining wall along the west side of the house many, many years. When the pool contractors started work they removed those items believing they could construct the new wall where the former walls had been located along the street curb without regard to the street setbacks and the fact that there is right-of-way that extends beyond the pavement of the street.

Mr. Bond asked Mr. Schuller what year the house was built. Mr. Schuller stated the house was built in 1924 according to Court House records.

Mr. Schuller stated the area was subdivided 100 years ago, in 1917, according to the Swan Park Plat. The subject property is on the west end between Swan Drive and Forrest Avenue which is now St. Louis Avenue. As best as can be told the property was carved out in the mid-1920s, the house was built in 1924 and the City acquired the land on the south side of St. Louis Avenue about 1931 by a deed. Evidently at that time, the City rerouted St. Louis Avenue angling it into Swan Drive instead of leaving it straight south to 19<sup>th</sup> Street and abandoned the rest of St. Louis Avenue on the west side of the subdivision. The subject property is a very irregular shaped lot surrounded on three sides by open public streets. There is a significant slope from the northwest to the southeast of the property. The lot is 6,320 square feet which is a little less than the minimum lot for RS-3 zoning. The lot boundaries have not changed since 1924 except for St. Louis Avenue. St. Louis Avenue that runs on the west side of the property and angles eastward into Swan Drive is a residential collector street on the major street and highway plan, so they are required to have 60 feet in width for that street as a planned right-of-way. The portion that runs beside the applicant's house is 60 feet in width but on the south side it is impossible to determine precisely what the right-of-way is because there is no right-of-way deed or print or dedication or condemnation or anything. Mr. Schuller stated that he has gone back and forth with the City and the City has searched through all their records in their various offices to find it and cannot.

Mr. Bond asked Mr. Schuller if he would consider it as an ill-defined or abandoned boundary. Mr. Schuller answered affirmatively.

Mr. Schuller stated the County Assessor's Office shows this as a separate tract and they have no records as to where the right-of-way would have come from. The Court House records have been searched and checked several times and have found nothing. So, there is no way of determining precisely where this right-of-way is and the street setback under the zoning code are measured from the right-of-way line. It also states in the zoning code there can be no structure within 25 feet of the center line of the right-of-way on a street not shown on the major street and highway plan. That would be Swan Drive on the east side of the subject property and that exists by virtue of the dedication of the plat. A center line cannot be determined because there is no opposite side of that line on the plat. There is uncertainty about the street right-of-way and what is planned right-of-way for St. Louis Avenue. The zoning plans review letter mentions a 15 foot side yard setback along St. Louis Avenue, which is on the south side of the subject property, and a 25 foot rear yard setback along Swan Drive, which is the east of the subject property. Those apply only to the pool and spa because the retaining wall and fence are expressly permitted within those setbacks. There are physical surroundings, shape and topography unique to just this property that result in an unnecessary hardship. The requested Variances will not alter the essential character of the neighborhood. They will not impair the use and development of adjacent property. The conditions that have been described have existed since the 1920s. The requested Variances are the minimum necessary to afford the applicant relief and will not cause substantial detriment to the public good or impair the purposes, spirit or the intent of the Code.

**Interested Parties:**

**Steve Caruthers**, 1510 East 17<sup>th</sup> Place, Tulsa, OK; stated he lives about two blocks from the subject property. His concern is the safety of traffic and walking around the residence. He wants to make sure this will provide adequate safety for people driving down Swan Drive or St. Louis, because the traffic has picked up considerably due to the construction in the area. There is a lot of pedestrian traffic in the neighborhood.

Mr. Van De Wiele stated that through the construction process and permitting the safety issues and the sight triangle issues will be addressed and they are causing the existing wall to be removed and reconstructed where it is appropriate.

Mr. Caruthers asked if there would sidewalks installed, or what will be done with the space where the wall is removed from. Mr. Van De Wiele stated that he did not know. Ms. Moyer stated that as far as she knew there are no new sidewalks proposed for the development.

**Tara Urich**, 2020 South St. Louis Avenue, Tulsa, OK; stated she is here today to show support for the property owners. She thinks the subject intersection is whacky because it is not a traditional intersection. Ms. Urich thinks the traditional setback rules should

not even apply because it is not a traditional piece of property or street. The home owners have done a wonderful job with the wall because the brick matches the house and the neighborhood.

**Tracy Hull**, 1555 Swan Drive, Tulsa, OK; stated she lives a few doors away from the subject property. She is in favor of what the home owners are doing. When a person looks are the two properties that are next to the subject property the wall comes to the exact same place, right to the curb. Many of the other properties in the neighborhood that do not have a wall there is nothing but weeds which can impede a person's vision more. In regard to the safety issue, that is a blind corner with or without a wall; the house subject house sits on a hill. She wishes the wall could remain where it is but obviously if it cannot the owner at least needs relief from the easement requirement. Where the subject property is located is not the side of the lake for pedestrians walking because there is no sidewalk on that side and never has been a sidewalk on that side because want to walk on the other side of the lake. This is a bad corner that is not going to be improved because it is on a hill. Ms. Hull stated that she hopes the owners are given the opportunity to make the investment in the property in the neighborhood.

**Rebuttal:**

**Stephen Schuller** came forward and stated there is no plan to build a sidewalk because there is no reason for it. There is an existing sidewalk along St. Louis Avenue on the west side of the subject property.

**Comments and Questions:**

Ms. Back stated that she is glad to see that the owner went to the Historic Preservation Commission to receive approval because it makes this Board's job a lot easier. Ms. Back stated that she is in favor of this project.

Mr. Bond stated that the City's inability to properly delineate setbacks should not be the home owner's problem. He does not know if this Board has the ability to state anything about a right-of-way.

Mr. Van De Wiele stated that he thinks the Variance is the safer approach and fixes the problem rather than a determination.

Ms. Blank agreed and stated that she does not think the determination of the right-of-way is also an item that was noticed. So, the Board is confined to whatever was noticed.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Flanagan Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **APPROVE** the request for a Variance to permit a swimming pool/spa as well as a retaining wall to be constructed within the side and rear yard setback and in the planned street right-of-way; Variance to permit a swimming pool/spa to be constructed within the street setbacks along South St. Louis Avenue and Swan Drive (Section 90-090). The Board finds the hardships to be an odd

shaped lot, the topography of sloping across the lot, and the physical surroundings with three sides abutting a right-of-way. This motion pertaining to the wall is per conceptual plan 9.11 and is for the wall only. The pool and spa shall be located as needed within the side and rear setbacks and as approved by the City of Tulsa Preservation Commission on March 9, 2017 as shown on 9.13 and 9.14 of 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:

**PT LTS 2 & 3 BG 22.6 N OF NWC LT 2 SE 38.7 S & PARL W.L. 5.5 SE 51.36 TO E.L. LT 3 SWLY ON CRV 74 NW 63.8 TO W.L. LT 2 N 81.9 T.B. BLK 1, PARK PLACE, SWAN PARK, City of Tulsa, Tulsa County, State of Oklahoma**

**22342—Brodrick Buckles**

**Action Requested:**

Special Exception to allow a Day Care Center for children in an R District (Section 5.020). **LOCATION:** 737 East Tecumseh Street North (**CD 1**)

**Presentation:**

**Tamara Jackson**, 2012 East 10<sup>th</sup> Street, Tulsa, OK; stated she has an existing day care center at another location and it is in the R zone. She would like to have a second day care center at the subject location.

Mr. Van De Wiele asked Ms. Jackson if she had heard from any of the neighbors opposing this request or having any concerns about the request. Ms. Jackson stated that she has not heard from anyone.

**Interested Parties:**

**Doris Green**, 3232 North Hartford Place, Tulsa, OK; stated she is in favor of the day care center. She thinks it will be a nice fit for the area because there are apartments with several children living in it.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the request for a Special Exception to allow a Day Care Center for children in an R District (Section 5.020). The Board finds that the requested Special Exception is not in harmony with the spirit and intent of the Code and would possibly be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**E 100 LT 4 BLK 1, PERSHING ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**22336—Josh Miller**

**Action Requested:**

Special Exception to allow a Parks and Recreation use in an R district to permit a temporary accessory parking lot for the Gathering Place (Section 5.020); Variance to allow a non-all weather parking surface (Section 50.090-F). **LOCATION:** South of the SE/c of East 31<sup>st</sup> Street South and Riverside Drive **(CD 9)**

**Presentation:**

**William Jay Stava, III**, 624 West 79<sup>th</sup> Street, Tulsa, OK; stated the planning process for the Gathering Place started about five years ago followed by a series of community meetings. One of the large concerns that came out of that was the concern for parking within the neighborhoods. There is a total of 525 paved spaces on the property with lighting and storm water. In the second year of the opening the Gathering Place has been looking at other parking options. There has been a three-tier parking system developed, which is one on site, two utilizing the Phase II and the Phase III area as a temporary parking and the third is off-site parking with shuttle service to the Gathering Place. Those are the three steps of parking that will be employed upon the opening of the park for at least the first year and possibly the full two years. Mr. Stava stated that he met with the neighborhood and there was a lot of concern of the proximity of the parking to the houses on the east side and the south side and the park is incredibly sensitive to that. There was a parking study performed and it showed a maximum 1,652 parking spaces, 36 of which are paved on the corner of 31<sup>st</sup> and Riverside for handicap parking. The park did not want to light the parking lot, did not want the storm water because this area will eventually become additional park land, so the park has

looked at having a maintained grass lot. There is a staff of 40 management personnel with 50 maintenance personnel that will be in the park, so the proposed lot will be a maintained lot. After speaking with the neighbors today in the hallway, he has agreed to not have anything within 25 feet of the construction fence which will curtail the spaces, deleted on the south side three parking rows, and on the north side have deleted four parking rows and deleted all the parking spaces along the fence to 31<sup>st</sup> Street making the parking away from the fence and closer to Riverside Drive. Mr. Stava stated that there had been discussion about not using gravel, but he would like to be able to use gravel for the repair or filling of low spots. There was concern about the fence, so he is going to look at installing another layer of mesh to prevent people from seeing through the fence or some sort of material that cannot be seen through. The neighbors were concerned about the two-year time request, so the compromise was until October 31, 2019 so that would be the only time for the parking lot request. The lot will be staffed and supervised when there are cars in the parking lot and it will not be lit.

Mr. Van De Wiele asked staff if there were lighting requirements for a parking lot. Mr. Stava stated that it is his understanding that if the lot is not paved lighting or stormwater is required. Ms. Miller stated that landscape requirements are also not necessary with an unpaved lot. Ms. Miller stated there are a lot of parking lot requirements if it is improved but otherwise no.

Mr. Bond stated that in full disclosure he was the former President of the neighborhood association and the neighborhood association is not present for this presentation today, so if anyone feels that there is a conflict he will address that. Mr. Bond believes he can look at this request objectively.

Mr. Bond asked Mr. Stava what happens to the parking lot after two years. Mr. Stava stated that if the parking load still requires the parking there will be offsite parking with shuttle buses available. What kicks in around 2021 or 2022 is a downtown circulator that brushes the park, so people can park downtown and get to the site.

Mr. Van De Wiele asked Mr. Stava what is the current anticipated time schedule for opening the facility. Mr. Stava stated it is scheduled for the summer of 2018.

Ms. Back asked Mr. Stava if he would be using grasscrete. Mr. Stava stated that he would either use a grasscrete in the driving lanes or fortified soils.

**Interested Parties:**

There were interested parties present, but no one came forward to speak.

**Comments and Questions:**

Mr. Bond stated this is a herculean project and this is a two-year fix until they can figure things out. The applicant has made real concessions to the neighbors, so he would be in favor of this application.

Mr. Van De Wiele reiterated the conditions that were conceded by the applicant to the neighbors to verify everyone was clear on what was being proposed.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the request for a Special Exception to allow a Parks and Recreation use in an R district to permit a temporary accessory parking lot for the Gathering Place (Section 5.020); Variance to allow a non-all weather parking surface (Section 50.090-F)m subject to the conceptual plan modified at today's meeting. The approval is subject to the following conditions: no parking within 30 feet of the property line on the south side of the property; on the southeast corner removal of three rows of parking as shown as etched out on the exhibit modified today; on the east side north of Crow Creek the removal of four rows of parking as shown on the exhibit today; on the northeast side of the property the removal of one row of adjacent parking along the fence line to 31<sup>st</sup> Street; enhance screening to be installed abutting residentially used properties to the south and east; the parking lot will be maintained and staffed while open for parking; gravel to be sparingly used for maintenance purposes only; and the parking lot will not be lit. This approval is granted through October 31, 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. 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 GOV LT 1 & PRT NW NE BEG 24.7S & 410.6E NWC NW NE TH W481.57 SE303.97 TH ON RT CRV 236.89 SE104.61 E371.67 N635.3 POB SEC 24 19 12 6.22ACS; 12 and BLK 1 3200 RIVERSIDE DRIVE ADDN SUB L9-10 PEEBLES SECOND ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

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**OTHER BUSINESS**

**Review** of the 2018 proposed meeting dates for the Board of Adjustment.

**Board Action:**

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the 2018 calendar dates for the Board of Adjustment meeting removing the November 27<sup>th</sup> date.

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**NEW BUSINESS**

None.

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**BOARD MEMBER COMMENTS**

Mr. Van De Wiele asked Ms. Miller if the October 24<sup>th</sup> meeting will be Mr. White's last meeting. Ms. Miller stated that Ms. Briana Ross is on the first committee agenda for Council to be discussed tomorrow. On November 1<sup>st</sup> Ms. Ross will return for confirmation by Council so her first meeting for the Board of Adjustment will be November 7<sup>th</sup>. Ms. Miller let everyone know that there will be a small reception on the 10<sup>th</sup> Floor for David after the October 24<sup>th</sup> meeting and Ms. Back has offered to help with contacting past Board members.

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There being no further business, the meeting adjourned at 2:58 p.m.

Date approved: \_\_\_\_\_

11/7/17

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Chair