

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1196
Tuesday, December 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 Flanagan, Vice Chair Back, Secretary Ross	Bond	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, December 7, 2017, at 10:49 p.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 **FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the October 24, 2017 Board of Adjustment meeting (No. 1194).

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the November 7, 2017 Board of Adjustment meeting (No. 1195).

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present at this time. Any motion will still require an affirmative vote of three of the remaining four members. 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. There is not a second meeting in the month of December and the next meeting will be January 9, 2018. 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.

NEW APPLICATIONS

22365—Hall Estill-Michael Keester

Action Requested:

Variance from the maximum floor area ratio of 0.75 pursuant to allow a maximum floor area ratio of 1.45 (Section 15.030-A) **LOCATION:** 5154 East Skelly Drive (CD 5)

Presentation:

The application was withdrawn.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

PRT BLK 1 BEG 5SE NEC BLK 1 TH SE156.64 SW9.6 SWLY CRV LF 128.45 S36.55 SW159.77 NW241 NE APR 121.73 SE5 NE184.87 POB, ADMIRAL BENBOW ADDN RESUB, SINCLAIR RESEARCH LABORATORY ADDN AMD, City of Tulsa, Tulsa County, State of Oklahoma

22367—W Design – Weldon Bowman

Action Requested:

Variance of the required rear yard setback in the RS-1 District (Section 5.030). **LOCATION:** 3836 South Atlanta Place East (CD 9)

Presentation:

The application was withdrawn.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

**PRT SW SW & PRT LT 15 BEG 428.65S & CRVLF 40.34 SELY NWC BROADMOAR
ADDN TH SELY CRVLF 52.04 SW85.62 S101.77 W228.03 N161.08 E93.08 SE32
NE66.43 NE91.62 POB SEC 20 19 13 .013AC, City of Tulsa, Tulsa County, State of
Oklahoma**

UNFINISHED BUSINESS

22349 – Izael Quezada

Action Requested:

Variance of the minimum lot width for a detached house in an RS-3 District to allow a lot split (Section 5.030). **LOCATION:** 2109 West Easton Street North (**CD 4**)

Presentation:

The applicant was not present. Mr. Van De Wiele moved this case to the end of the agenda to allow the applicant time to arrive.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required at this time.

NEW APPLICATIONS

22359 – City of Tulsa

Action Requested:

Special Exception to permit a Governmental Services use in an IL & RS-3 District (Sections 15.020 & 5.020); Variance from the landscaping requirements in Chapter 65. **LOCATION:** 4345 North Mingo Road East (CD 3)

Presentation:

Brent Wright, Vice Wing Commander, 9100 East 46th Street North, Tulsa, OK; stated the subject location is 46th Street North and North Mingo Road. There were 22 acres acquired recently from the Airport Authority. The site was intended for a bulk fuel storage complex, but the opportunity arose to have a mission training center there. The center is a 20,000-square-foot building that will house four simulators. The simulators are funded by the federal government and the daily mission at the Tulsa Air National Guard base is to train pilots to be mission and combat ready. The center is restricted based on ranges and air space around Tulsa and the region, so the base cannot simulate a near pure adversary like China or Russia. The simulators will allow the pilots to be trained up to the most current readiness.

Interested Parties:

Dean Kendrick, Professional Engineering Consultants, 4150 South 100th East Avenue, Suite 401, Tulsa, OK; stated the Variance for landscaping is requested due to the fact that there is anti-terrorism force protection requirements and United States Air Force bird hazard regulations that must be followed. In regard to the anti-terrorism force protection, there are certain distances from the ground that greenery cannot be planted because there is a necessary sight line and the landscaping is a potential security hazard. Another regulation that must be followed is the Energy Independence and Security Act. There will be landscaping done with low level impact development and it will be irrigated. Mr. Kendrick feels the landscaping requirements can be met but it will be done slightly different than what the City of Tulsa requires. There are no government requirements for parking and he would like to explain how the parking requirements were calculated. The building is 20,000 square feet and about 13,000 square feet of that building is for office space. Each training bay was separated and assigned three parking spaces per bay. Based on Table 55, there was 5,000 square feet deducted from the first 13,000 square feet and base 2.8 spaces per 1,000 square feet to develop the number for the parking requirements. There is a parking lot being built with the facility but in the future the base will have another parking lot which handle the overflow with a connection to cross the street so there will be more spaces than needed for the facility.

Ms. Back asked Mr. Kendrick how many spaces are in the current parking lot. Mr. Kendrick stated there are 39 spaces, and when the additional parking lot is completed in 2018 there will be an additional 50 spaces.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to permit a Governmental Services use in an IL & RS-3 District (Sections 15.020 & 5.020); Variance from the landscaping requirements in Chapter 65, per the conceptual plan submitted today. The parking is as shown on the plan submitted by the applicant today. The Board has found the hardship to be federal regulations prohibiting certain landscaping requirements to be met under the Tulsa Zoning Code. 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:

A tract of land in the Northeast Quarter of Section 13, Township 20 North, Range 13 East, Tulsa County, State of Oklahoma being more particularly described as follows, to wit:

Commencing at the Northeast corner of said Section 13, Thence S 00° 01'40" E along the East line of said Section 13 a distance of 82.41 feet, Thence S 89° 58'20" W and perpendicular to the East line of said Section 13 a distance of 40.00 feet to the Point of Beginning, Thence S 00° 01'40" E a distance of 556.71 feet along a line that is parallel with and 40.00 feet west of the East line of said Section 13 Thence N 89° 50'40" W a distance of 10.00 feet, along a line that is parallel with and 20.00 feet north of the South line of the N/2, NE/4, NE/4 of said Section 13 Thence S 00° 01'40" E a distance 283.72 feet along a line that is parallel with and 50.00 feet west of the East line of said Section 13 Thence S 89° 50'40" E a distance of 10.00 feet Thence S 00° 01'40" E a distance of 65.90 feet along a line that is parallel with and 40.00 feet west of the East line of said Section

13 Thence N 89° 50'46" W a distance of 1307.55 feet, along the South line of the N/2, S/2, NE/4, NE/4 of said Section 13, Thence a distance of 156.90 feet along a non tangent curve to the left of which the radius point lies S 87°22'47"W a radius of 320.89 feet, and having a central angle of 28°00'57"; a chord bearing of N 16°37'42" W and a chord distance of 155.35.

Thence N 30°38'09"W a distance of 259.29 feet; Thence a distance of 236.17 feet along a curve to the right having a radius of 441.97 feet and a central angle of 30°36'59" said curve having a chord bearing of N 15°19'39"W and a chord distance of 233.37 feet; Thence N 00°01'10"W a distance of 267.66 feet; Thence S 89°50'24"E a distance of 25.00 feet; Thence S 00°01'10"E a distance of 267.59 feet; along the West right-of-way line of N 93rd E Ave Thence a distance of 222.73 feet along a curve to the left having a radius of 416.97 feet, and having a central angle of 30°14'50"; said curve having a chord bearing of S 15°19'40"W and a chord distance of 220.15 feet, along the West right-of-way line of N 93rd E Ave Thence S 30°38'09"E a distance of 92.67 feet; along the West right of way line of N 93rd E Ave Thence S 89° 50'40" E a distance of 630.00 feet, along a line that is parallel with and 25.00 feet south of the South line of the N/2, NE/4, NE/4 of said Section 13 Thence N.00°01'27"W a distance of 624.30 feet; along the West line of E/2, E/2, NW/4, NE/4, NE/4 of said Section 13, Thence S 89° 50'28" E a distance of 762.62 feet, along a line that is parallel with and 60.00 feet south of the North line of Section 13, Thence S 45°00'00"E a distance of 31.97 feet to the POINT OF BEGINNING. Containing 916,471.56 square feet or 21.0393 acres, more or less, City of Tulsa, Tulsa County, State of Oklahoma

22360—Maria Franco

Action Requested:

Variance to allow less than a 20-foot rear setback (Section 5.030-A). **LOCATION:**
3604 South 120th Place East (CD 6)

Presentation:

Maria Franco, 3604 South 120th East Place, Tulsa, OK; stated she is adding an addition onto the rear of the house. The shape of the lot is triangular and at the closest point it will be 15 feet from the property line and getting bigger as the property line goes to the west.

Ms. Ross asked if there were any easements between the 15 feet and the 20 feet. Mr. Van De Wiele stated that there may be but that would be a building permit issue. Mr. Van De Wiele informed the applicant that if there are utility easements in the 20-foot rear setback area the building permit will not be issued because nothing can be built onto top of a utility easement.

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, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Variance** to allow less than a 20-foot rear setback (Section 5.030-A) to allow 15 feet. The Board has found the hardship to be the odd configuration of the lot. The approval is subject to conceptual plan 5.6 in the agenda packet. The exterior building material is to be similar and in keeping with the existing 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:

LT 46 BLK 6, GARNETT PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22361—Shaun Schaefer

Action Requested:

Special Exception to allow a Bed and Breakfast (Airbnb) in an RS-3 District (Section 5.020). **LOCATION:** 1602 South Trenton Avenue East (**CD 4**)

Presentation:

Shaun Schaefer, 1602 South Trenton Avenue, Tulsa, OK.

Mr. Van De Wiele stated that there has been discussion with staff as to whether there are multiple dwelling units or a new dwelling unit, and how that all interplays with today's request.

Ms. Miller stated that the question was posed about the number of accessory dwelling units that are on the property. The Permit Office has told staff that they do not have a permit to create the second accessory dwelling unit. That is an issue today because the Board will not be able to approve a Special Exception to allow for the two units if this has not been through the permit process. This may be something that the Permit Office will not allow since they must be accessory to the principal use of the property which is the single family residential use. Ms. Miller asked Mr. Schaefer what his permit status is on a second accessory dwelling unit. Mr. Schaefer stated that he took the address to the City, so he is not following. Ms. Miller stated the City has stated that the permit for the Airbnb was reviewed, but not necessarily creating another unit on the property. Mr. Schaefer stated he is not creating or building, it is an existing garage apartment. Ms. Miller stated that it is understood that the garage apartment is to be converted to two units where only one currently exists. Mr. Schaefer stated that is correct. Ms. Miller stated that there will be a permit required for that, so that is another issue. If there is going to be two units where only one unit currently exists needs to be reviewed by the Permit Office.

Mr. Van De Wiele stated the issue is that there can only be one dwelling unit, which is a defined term in the Code, on any given lot. The fact that the garage apartment is older than the Code would allow the current garage and the unit above it, but turning the bottom space from garage into another unit will require a building permit. But whether or not a permit can be obtained because of a zoning clearance to create a second dwelling unit is the issue. A building permit is not something the Board of Adjustment deals with. Mr. Van De Wiele stated that the zoning clearance permit should come first before the Board hears the Special Exception request.

Mr. Schaefer asked if that was something that could be done in parallel time. Mr. Van De Wiele stated they could be done in parallel, by filing for a building permit and the City will let you know whether the second dwelling unit can or cannot be built.

Ms. Miller stated that the Letter of Deficiency is what staff needs to see so they can review it, and that may require another application.

Interested Parties:

James Haver, 723 West 91st Street, Tulsa, OK; stated the property is dated to 1926 and nothing is being changed. An existing unit is being renovated.

Mr. Van De Wiele asked Mr. Haber what is downstairs currently. Mr. Haber stated that there are living quarters upstairs and downstairs because it had been converted.

Mr. Van De Wiele stated that what this discussion is being based on is an e-mail that says, "we are in the process of converting to two units". Mr. Haber stated that the entire unit has been living quarters for the last 25 years. Mr. Van De Wiele stated that is as one, and that is the struggle that the Board has. To change the unit to two units will

require a building permit, and if the Permit Office tells you that you do not need a building permit then the application comes back to the Board of Adjustment.

Guy Burgess, 1628 South Troost, Tulsa, OK; stated that he thinks there are other issues that need to be considered in this case. There are actually two single family residences on this one property. It has been called an accessory unit and it is not an accessory, because the other address is 1540 East 16th Street; it has been operated as an individual home for a single family for about 25 years. In the Board's consideration it cannot be considered an accessory building. There has been no discussion regarding parking and in changing from two single family residences to three units there should be some consideration for parking. Mr. Burgess stated that he visited the Permit Office this morning and no permits have been pulled on the two buildings, so there is plumbing, electrical, HVAC, and building changes and alterations that are being made without permits. Mr. Burgess stated that he would recommend this request be denied until all the questions have been answered.

DeeAnn Paisley, 1530 South Trenton Avenue, Tulsa, OK; stated that she lives directly across the street from the subject property. Ms. Paisley stated that she had to take off work to attend today's meeting, and she will have to take off work again to attend. She would ask the Board to continue the case until January 23rd and not January 9th, because these are the holidays. There is a whole lot of construction happening on the property right now and she would like the time. She also asked the Board to consider having meetings at hours when working people do not have to take time off from work to attend.

Mr. Van De Wiele agreed that January 9th seems like too short of a time period for this case to make its way through the permitting process, but people can call INCOG to find out if there is more information available, if the case is going to be continued, etc. As far as moving the meetings into the evening he does not think that will happen, because he knows it is difficult for people take time off from work.

Ms. Back stated that she would be more inclined to move this case to the 23rd because of the holidays. Ms. Back does not want the applicant to spend thousands of dollars on plans, but he does need to have something on paper for staff to review.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for a **Special Exception** to allow a Bed and Breakfast (Airbnb) in an RS-3 District (Section 5.020) to January 23, 2018 Board of Adjustment meeting; for the following property:

LT 1 BLK 13, ORCUTT ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22362—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to permit an existing Residential/Group Living/Assisted Living center in an OL District (Section 15.020). **LOCATION:** 2552 East 21st Street South (**CD 4**)

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated the subject property is located in a commercial section of mostly office zoning on the south side of 21st Street, and is located west of the Broken Arrow Expressway and east of Lewis. The facility has been a nursing home since the 1950s. It was originally about 12,000 square feet and in 1975 about 4,000 square feet was added. The facility today is almost 17,000 square feet. There are no plans to change the exterior of the building and there will be nothing added to the building for the assisted living center use.

Mr. Van De Wiele asked Mr. Reynolds about the e-mail exchange regarding a drug or alcohol facility. Mr. Reynolds stated there is no drug or alcohol treatment facility to be on the subject property.

Mr. Van De Wiele asked Mr. Reynolds to explain the difference between assisted living and a nursing home. Mr. Reynolds stated the difference is the level of treatment that is received; there is a more rigorous level of treatment in a nursing home than in an assisted living facility.

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, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to permit an existing Residential/Group Living/Assisted Living center in an OL District (Section 15.020), subject to "as constructed". 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:

East 180 feet of Lot 29, Block 1, HARTERS SECOND SUBDIVISION, City of Tulsa, Tulsa County, State of Oklahoma

22363—Michael Joyce

Action Requested:

Special Exception to permit personal vehicle rentals in the CS District (Section 15.020). **LOCATION:** 10032 South Mingo Road East (**CD 7**)

Presentation:

Michael Joyce, 3220 South Peoria Avenue, Tulsa, OK; stated this request is for a personal vehicle rental office for Enterprise Rent-a-Car on the northwest corner of 101st and Mingo. This is a commercial center and there was an existing Fiesta Mart on that corner which has been vacant for some time. The property is surrounded by commercial uses virtually on all sides. This area is designated as an area of growth and this will not be injurious to the neighborhood or the surrounding area. This proposed business will create 10 to 12 jobs at the subject location. The traffic in and out of the proposed business will be substantially less than the traffic for the surrounding businesses. The hours of operation are proposed to be 7:30 A.M. until 6:00 P.M. during the week and 9:00 A.M. to 3:00 P.M. on Saturday.

Mr. Van De Wiele asked Mr. Joyce if the only changes to the facility is refacing the canopy and cleaning up the property. Mr. Joyce stated the existing building will be repurposed with the Enterprise Rent-a-Car canopy, and the existing car wash will be used.

Mr. Van De Wiele asked staff if this request would be subject to the parking striping and the other issues that come with a used car lot. Mr. Joyce stated that when the application was submitted to the City for the zoning clearance review, Mr. Lange did look at that and there was no issue. Ms. Moyer stated that for any type of parking area the parking must be designed in a way that it meets the current zoning code.

Ms. Ross asked Mr. Joyce if Enterprise was anticipating having additional parking for people can leave a car on the property when they come to rent a car. Mr. Joyce stated that it is not anticipated that there would be cars left on the property, but the parking will be in compliance with the Code.

Ms. Back stated the person who laid out the parking on the plan was very creative, and she commends them.

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, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special

Exception to permit personal vehicle rentals in the CS District (Section 15.020), per conceptual site plan 8.8 labeled as existing 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:

LT 28 BLK 2, CEDAR RIDGE VILLAGE, City of Tulsa, Tulsa County, State of Oklahoma

22364—Mary Huckabee

Action Requested:

Amendment to a previously approved site plan to allow expansion of the Ronald McDonald House. **LOCATION:** 6102 South Hudson Avenue East (**CD 9**)

Presentation:

Mary Huckabee, Connor and Winters, 4001 Williams Center, Tulsa, OK; stated she is representing Ronald McDonald House. In 2000 the Special Exception was granted conditioned upon a site plan. At this point Ronald McDonald House would like to renovate to add more common areas for the families that Ronald McDonald House serves. The renovations are relatively minor. There will be a kitchen added so the families can cook meals together and eat together. On the west side there will office space added which allow more space within the center to be freed up for families to gather in common areas. On the south there will be a meditation garden added. In the northeast corner there is playground to be added. St. Francis, who owns the property, has consented to this change and the property is on a long-term lease with St. Francis. Ronald McDonald House Executive Director, Jean Ann Hankins, met with the neighborhood and the neighborhood association is supportive of this request. The renovations will enhance the property and the neighborhood, and it will allow Ronald McDonald House to better serve the clients they take care of on a daily basis.

Mr. Van De Wiele asked if the circle drive depicted on the site plan is new. Ms. Huckabee answered affirmatively.

Ms. Back asked the site plan given to staff today is the same site plan in the Board's agenda packet. Ms. Huckabee answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 3-0-1 (Back, Flanagan, Ross "aye"; no "nays"; Van De Wiele "abstaining"; Bond absent) to **APPROVE** the request for an **Amendment** to a previously approved site plan in BOA-18869 to allow a playground area expansion of the Ronald McDonald House, per conceptual plan 9.13 in the agenda packet. The Board finds that the requested Amendment will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

E225 LT 1 BLK 2; W217.8 E442.8 LT 1 BLK 2, WARREN CENTER EAST AMD, WARRENTON, City of Tulsa, Tulsa County, State of Oklahoma

22366—Bryan Rogers

Action Requested:

Special Exception to allow a fence to exceed 4 feet in height in the front street setback (Section 45.080-A). **LOCATION:** 102 East 22nd Street South (**CD 4**)

Presentation:

Chris Cunningham, 102 East 22nd Street, Tulsa, OK; stated he is the home owner and this request is to allow a fence in the front to be five feet due to how the house sits on the lot. The house is at a higher elevation than the street level, therefore, a four-foot fence would seem shorter from the house side. He has a large dog and there is a lot of traffic on 22nd Street because the Midland Valley Trail is east of the house. He does not want anyone in the neighborhood or walking by his house to be concerned because of his Great Dane. He has reached to the Historic Preservation Commission for recommendations for the fence, so it would fit into the aesthetic of the neighborhood, and the fence has been designed based on those recommendations.

Mr. Van De Wiele asked Mr. Cunningham what style of fence he planned to erect. Mr. Cunningham stated it is open slat wrought iron with a stone footer that will match the outside of the house.

Mr. Van De Wiele asked if the fence would be sitting on top of a small wall with the total not to exceed five feet. Mr. Cunningham answered affirmatively.

Ms. Back stated that the LOD was done on a five-foot iron fence, and she asked if the City knew the five-foot fence was going to be built on a footer. Mr. Cunningham stated that the goal is to have the total height to be five feet.

Interested Parties:

James Hutton, 118 East 22nd Street, Tulsa, OK; stated he is immediately next door to the subject property. The street is a very small street, with only three houses on the south side of the street and condominiums on the north side of the street. The proposed fence not only goes along 22nd Street but it also goes south on Boston, and it

is a large dominant structure being built. The fence as proposed will dominate and degrade the appearance of the street, and it will give the appearance of narrowing the street making it appear more like an alleyway. The applicant does have a backyard and the dog does have access to that area. The dog is also not very mobile because the dog has painful neuropathy, so he questions whether there is any reason to build an area in the front for the dog. Mr. Hutton urged the Board to deny the request.

Mr. Van De Wiele stated that applicant would have the right to build a four-foot fence, and he asked Mr. Hutton if he would have the same opinion as to a four-foot fence. Mr. Hutton stated that the view of the three houses would be substantially degraded, even though there is a hill, a person would not be able to see the bottom half of the three houses.

Mr. Hutton stated the fence footer has already been built, if it is measured from the street side it exceeds a foot in some areas.

Mr. Van De Wiele asked the builder to come forward for a couple of questions.

Bryan Rogers, 3127 East 44th Place, Tulsa, OK.

Mr. Van De Wiele asked Mr. Rogers if 22nd Street is lower than the house. Mr. Rogers answered affirmatively. Mr. Van De Wiele asked if the five-foot fence was to be five feet from the north side or five feet from the south side. Mr. Rogers stated it is an average. The City informed him that he had to take average points and that the average is not exceed five feet. Mr. Rogers stated that is why one place may be higher than others, but he was prepared to add a four-foot panel and be within Code requirements with the five-foot being requested.

Mr. Van De Wiele asked Mr. Rogers if what was going to be on top of the wall is a four-foot section of fence. Mr. Rogers answered affirmatively. Mr. Van De Wiele asked Mr. Rogers if the columns were going to be rock. Mr. Rogers stated the columns are just like the fence, metal posts with a cap on top.

Mr. Flanagan asked if the only rock was to be in the base. Mr. Rogers answered affirmatively.

Rebuttal:

Chris Cunningham came forward and stated that the back yard is not an option because it is completely paved over with a pool. The dog still has a bladder and a colon that needs to be emptied and the dog still likes to play in the yard, so he would like for the dog to have space to do so. Mr. Cunningham stated he is not concerned about the dog hurting anyone, but he wants everyone and the dog to have a sense of comfort.

Ms. Back asked Mr. Cunningham if he was saying his backyard is completely impervious with no grass. Mr. Cunningham stated there are very small patches of grass and minimal.

Comments and Questions:

Ms. Ross stated she has no issues with this request because it is a see-through fence. She did not hear a reason for there to be a difference between four feet and five feet; if this were a privacy fence she would be concerned.

Ms. Back stated she does have a small issue. When driving through the neighborhood nobody has a fence around the front areas. The applicant does have a backyard and it was his choice to put in what is there, so she would prefer the fence to stay at four feet. She would like to keep with the harmony and spirit of the neighborhood.

Mr. Flanagan stated he has no issue with the five feet. The fact that he has a pool or does not have a pool, or has a 100% concrete or has a 100% grass, or has a dog or doesn't have a dog is completely irrelevant. The applicant has gone to great lengths to get advice and iron is lot more expensive than wood, and he would approve the five feet.

Mr. Van De Wiele stated that he is torn on this. He guesses the fence was designed prior to the height becoming an issue, and it sounds like the four-foot panels have already been purchased or ordered. And maybe a three-foot fence would look silly on top of a one-foot wall.

Mr. Van De Wiele asked Ms. Blank or Ms. Miller to explain "spirit and intent of the Code". He does not have a problem in saying that it is not going to be injurious to the neighborhood, because he does not think an extra foot of iron or the bottom foot of rock is not going to be injurious or detrimental to the public welfare.

Ms. Back stated that the four feet in the front yard is more of a sight distance issue, if she is not mistaken. With it being more of a sight distance issue, and the house sets up, with someone coming around the corner it is not like they are looking through his fence to go around the corner, so that might be something to lean on to say it is not going to be injurious to the neighborhood and is in harmony with the spirit and intent of the Code.

Ms. Miller stated that she looks at this in the big picture sense. You can look at these cases in a context sensitive way like Carolyn stated. This probably is not in the spirit and intent of the neighborhood as far as how it is developed even there is multi-family and other types of housing in the area, the neighborhood is different. That is why there is this process for review, especially when a fence goes above four feet. The purpose of the Code is to have predictable expectations for how neighborhoods will develop, and this is developed accordingly based on the zoning regulations that were in place at the time the structures were built. This is something a little outside of the norm, and that is why the home owner must request a Special Exception.

Ms. Ross stated the ground inside of the fence area is higher and is not level. She thinks when the Code was developed the thinking was more along the lines of a flat lot

to have a four-foot fence. In this case there is a slope so four feet on the street side could be three feet or less on the internal side in some areas. Mr. Van De Wiele stated there may be some merit to that.

Board Action:

On **MOTION** of **ROSS**, the Board voted 3-1-0 (Flanagan, Ross, Van De Wiele "aye"; Back "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for an Special Exception to allow a fence to exceed 4 feet in height in the front street setback to allow five feet (Section 45.080-A), per the conceptual plan 11.9 of the agenda packet. The ground inside the fence area slopes down toward the street and is higher than the ground level outside the fence area. The fence is to be built as on 11.9 as a four-foot iron fence, that can be seen through, on top of a one-foot rock wall for the fence, and calculated and averaged as the Code describes. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**W 25' OF LT 2 ALL OF LTS 3 & 4 BLK 6, RIVERSIDE DRIVE ADDN THIRD AMD,
City of Tulsa, Tulsa County, State of Oklahoma**

22368—Sam Sendgraff

Action Requested:

Variance of the required rear yard setback in the RS-3 District (Section 5.030);
Variance of the minimum lot-width for a detached house in the RS-3 District to allow for a lot-split (Section 5.030). **LOCATION:** 3742 South 31st West Avenue (CD 2)

Presentation:

Sam Sendgraff, 4626 East 31st Street, Tulsa, OK; stated the subject property is in the Red Fork area. The neighborhood was built in approximately 1925 before a lot of the standards were set. The property was originally built with two dwellings on the one lot so that is why the side yard Variance is needed making the north lot 48.4 feet. The rear dwelling has only 1'-6" from the lot line.

Mr. Van De Wiele asked if the shed in the back on the southern lot is to be removed. Mr. Sendgraff answered affirmatively.

Mr. Van De Wiele asked if the only thing to remain on the northern lot is the house. Mr. Sendgraff answered affirmatively.

Ms. Moyer stated the request that is written as part of the Case Report is to reduce the rear setback for the existing house on the northern lot from 20 feet to 3 feet, however, on the exhibit just submitted by the applicant it looks like the setback is actually 1.5 feet, so that would need to be adjusted.

Mr. Van De Wiele asked if this was advertised just to reduce the rear setback. Ms. Moyer answered affirmatively. Mr. Van De Wiele asked if it was advertised to reduce to three feet. Ms. Moyer stated that it was not.

Ms. Ross asked Mr. Sendgraff if he had ever investigated about having the alleyway in the rear vacated to increase his lot size. Mr. Sendgraff stated that he has not.

Ms. Ross asked Mr. Sendgraff if he would be living on the property. Mr. Sendgraff stated he will be living on the property to the north which is 3732 South 31st West Avenue, and he plans to have the property to the south for more space. Ms. Ross asked Mr. Sendgraff what his plans are for the house on Tract 1. Mr. Sendgraff stated that he will be keeping it for when family visits, but he does plan to sell the house to the south. If he cannot have the lot split he will keep that house, keeping the entire property.

Ms. Back recused at 2:34 P.M.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 3-0-1 (Flanagan, Ross, Van De Wiele "aye"; no "nays"; Back "abstaining"; Bond absent) to **APPROVE** the request for a Variance of the required rear yard setback in the RS-3 District from 20 feet to 1.5 feet (Section 5.030); Variance of the minimum lot-width for a detached house in the RS-3 District from 60 feet to 51 feet for Lot 1 and 48 feet for Lot 2 (Section 5.030) to allow for a lot-split. The Board has found that the structures were built prior to the Zoning Code and were likely in compliance at the time they were built. This approval is per the survey submitted today by the applicant. The approved Variances only apply to the existing structures and those structures are removed then the Zoning Code required setbacks go back into effect. 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 23, RED FORK, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Back re-entered the meeting at 2:41 P.M.

22369—Jack Arnold

Action Requested:

Special Exception to allow a fence height greater than 4 feet in the front setback (Section 45.080). **LOCATION:** 2440 East 28th Street South **(CD 4)**

Presentation:

Jack Arnold, 7310 South Yale, Tulsa, OK; stated he sent out letters to all the neighbors and he did receive letters back in support. The wrought iron fence is primarily for security because there was a homicide down the street. The fence will have some columns with a brick base and landscaping in front of the base of the fence. The fence is to be six feet in height with the columns six inches taller than the fence. There are others houses in the neighborhood with fences.

Mr. Van De Wiele asked Mr. Arnold to talk about the gates. Mr. Arnold stated that gate will set back and will also be six feet in height.

Ms. Ross asked Mr. Arnold if there were any other houses in the neighborhood with six-foot-tall fences. Mr. Arnold stated that he thinks there are houses with even taller fences.

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, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to allow a fence height from 4 feet to 6 feet in the front setback (Section 45.080), per conceptual plans 14.8 and 14.9 in the agenda packet. The approval is subject to following conditions: the wrought iron gate and fence will be six feet in height with the columns not to exceed 6'-6" in height. 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:

PT BLK 3 S LEWIS PK A TR BEG 150 W FROM NE COR OF BLK TH S 245 TH W 200 TH N 239.62 TH E ON N LI OF BLK A DIST OF 200.20 TO BEG, SOUTH LEWIS PARK, KENNEDY-WALKER ADDN RESUB PRT B3 SOUTH LEWIS PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

REFUND:

22369—Jack Arnold

Action Requested:

Special Exception to allow a fence height greater than 4 feet in the front setback (Section 45.080). **LOCATION:** 2440 East 28th Street South **(CD 4)**

A sign was not required for this application; refund \$130.00.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **REFUND** OF \$130.00; for the following property:

PT BLK 3 S LEWIS PK A TR BEG 150 W FROM NE COR OF BLK TH S 245 TH W 200 TH N 239.62 TH E ON N LI OF BLK A DIST OF 200.20 TO BEG, SOUTH LEWIS PARK, KENNEDY-WALKER ADDN RESUB PRT B3 SOUTH LEWIS PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

22370—Ryan Strode

Action Requested:

Variance of the required front setback in the RS-2 District (Section 5.030).

LOCATION: 4615 South Darlington Avenue East **(CD 5)**

Presentation:

Ryan Strode, 4329 East 56th Place, Tulsa, OK; stated the church congregation has grown very quickly and they need more classroom space for the children's ministry. They are deciding whether to add onto the building or move to a large facility. In the meantime, they would like to have a temporary building to set next to the existing building to expand the children's ministry. The temporary building would be for one year only, and during that time a decision will be made. Because of the fire setbacks the temp building can only be 25 feet away from the street and that is the reason for the Variance request.

Mr. Van De Wiele asked Ms. Blank to step out of the meeting for a quick discussion at 2:51 P.M. regarding a possible issue. Mr. Van De Wiele and Ms. Blank re-entered the meeting at 2:52 P.M.

Mr. Van De Wiele recused at 2:52 P.M.

Mr. Strode stated the building will be similar to a classroom building that are behind schools. There will be a ramp added to the building making it ADA accessible. The existing restrooms in the existing structure are literally within the door that will be used to go to the temporary building.

Mr. Flanagan asked Mr. Strode if a year is all that is required because things do happen that could delay the process. Mr. Strode stated there is a year's lease on the temporary structure and the church will not need more than a year once the temporary building is in place.

Ms. Back asked if the temporary structure can be seen from 46th Street. Mr. Strode answered affirmatively.

Mr. Strode stated the existing building is built in a U shape so the temporary building will be hidden in the courtyard area behind the trees, so it will be masked as much as possible.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Back stated that she would prefer the temporary building be placed on the interior of the subject property so that it is not seen from the main thoroughfare. She does understand growth and could support this request, but it will definitely need a time constraint placed on it.

Ms. Ross stated that she will not have a problem with this request as long as it is limited to one year.

Board Action:

On **MOTION** of **ROSS**, the Board voted 3-0-1 (Back, Flanagan, Ross "aye"; no "nays"; Van De Wiele "abstaining"; Bond absent) to **APPROVE** the request for a Variance of the required front setback in the RS-2 District from 30 feet to 25 feet (Section 5.030), subject to conceptual plan 15.10 in the agenda packet. The Board has found the hardship to be the configuration and the layout of the lot not allowing the temporary building to be placed anywhere else on the lot. The temporary building will only be allowed on the property for one year and is to be removed by January 12, 2019. 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:

W/2 LTS 1 2 & 3 LESS N30 E158.35 W/2 LT 1 BLK 1 AND LT 1 BLK 1 SINCLAIR RESEARCH LABORATORY ADDN AMD. MAGNOLIA MANOR SECOND ADDN RESUB PRT L1-10 B1 ALLENS SUB, SINCLAIR RESEARCH LABORATORY ADDN AMD, ALLENS SUB, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele re-entered the meeting at 3:04 P.M.

OTHER BUSINESS

REFUND:

22355—Kevin Sparks

Action Requested:

Variance to allow a non-all-weather parking surface (Section 50.090-F).

LOCATION: 1141 South Lewis East (CD 4)

The application was withdrawn by Staff; refund \$500.00.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **REFUND** OF \$500.00; for the following property:

LT 15 BLK 4, BOSWELL'S ADDN, City of Tulsa, Tulsa County, State of Oklahoma

UNFINISHED BUSINESS

22349—Izrael Quezada

Action Requested:

Variance of the minimum lot width for a detached house in an RS-3 District to allow a lot split (Section 5.030). **LOCATION:** 2109 West Easton Street North (CD 4)

Presentation:

Izrael Quezada, 8107 East Admiral Place, Tulsa, OK; stated he purchased the property in Owen Park and he would like to split the lot enabling him to renovate the existing house and later build another property.

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, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance of the minimum lot width from 60 feet to 53.5 feet for a detached house in an RS-3 District to allow a lot split (Section 5.030), subject to conceptual plan 3.7 in the agenda packet. The Board finds the hardship to be that numerous lots in the neighborhood are not very wide. 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:

**BEG 30N SECR OF W21.18 A LT 2 N ON EL 140 W120 S140 E120 POB SEC 3 19
12, IRVING PLACE, City of Tulsa, Tulsa County, State of Oklahoma**

NEW BUSINESS

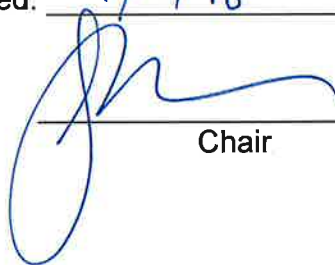
None.

BOARD MEMBER COMMENTS

The Board wishes everyone a Merry Christmas and a Happy New Year.

There being no further business, the meeting adjourned at 3:06 p.m.

Date approved: 1/9/18



Chair