

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1216
Tuesday, October 23, 2018, 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 Back, Vice Chair Ross, Secretary Bond Radney		Miller Ulmer Sparger R. Jones	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on October 18, 2018, at 8:28 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Van De Wiele called the meeting to order at 1:00 p.m.

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

MINUTES

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the October 9, 2018 Board of Adjustment meeting (No. 1215).

NEW APPLICATIONS

22526—Melissa Bruns

Action Requested:

Variance to reduce the side setback in a RE District to permit an existing structure (Section 5.030, Table 5-3). **LOCATION:** 4121 South Wheeling Avenue East (**CD 9**)

Presentation:

The applicant has withdrawn the application.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

N115 LT 2 BLK 1, OAKWOLD SUB, City of Tulsa, Tulsa County, State of Oklahoma

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UNFINISHED BUSINESS

22515—Linda Rollins

Action Requested:

Special Exception to permit a carport in the street side setback and street yard (Section 90.090-C.1). **LOCATION:** 903 South Urbana Avenue East (**CD 4**)

Presentation:

Staff requests a continuance to November 13, 2018 due to additional relief needed.

Mr. Van De Wiele asked if the applicant was aware of the continuance request. Ms. Ulmer answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Special Exception to permit a carport in the street side setback and street yard (Section 90.090-C.1) to the November 13, 2018 Board of Adjustment meeting; for the following property:

LT 18 BLK 1, RIDGELAWN, City of Tulsa, Tulsa County, State of Oklahoma

22481—Mark Capron

Action Requested:

(Reconsideration from 08/28/2018)

Special Exception to permit a school use in an RS-3 District (Section 5.020-C).

LOCATION: 3121 East Queen Street North **(CD 3)**

Presentation:

Josh Miller, 7030 South Yale, Suite 600, Tulsa, OK; stated he represents the applicant Educare. Mr. Miller stated the City has made the transfer of the park to Tulsa Public Schools and all the recommendations will be implemented of City parks with regard to moving the sport court, renovation, making a multi-use sports court to accommodate soccer, basketball and volleyball. There will be 1.6 acres of open space preserved to allow all the existing uses as well as consideration will be given to renovating the shelter as needed. The City has made a commitment towards safety improvements. There is an overall need for the Educare facility and there will be benefits to the neighborhood. Mr. Miller stated he has met with the neighbors four times; twice since the last hearing. He feels like all the neighborhood input has been incorporated and they have addressed all their concerns and are leaving the traffic condition better than when the proposed project started.

Esther Shaw-Smith, Lee Engineering, 1000 West Wilshire, Suite 403-E, Oklahoma City, OK; stated Lee Engineering was contracted by TPS to study queuing, parking, and the traffic impact that Educare would have on the existing roadway network. Lee Engineering did look at all that and used industry standard computation methods; methodologies that are readily approved by the City of Tulsa. Lee Engineering presented two options. The first option would be to separate the traffic that is coming for Educare versus the existing Celia Clinton traffic. Lee Engineering has already been contracted with the City of Tulsa to perform the school's safety first initiative school safety audits, and the firm has already been to Celia Clinton to observe drop off and pick up operations, do a full site assessment of the campus, look at the ADA paths, and routes that kids can use to get to and from the school safely whether walking or biking. Celia Clinton was one of the City's top priority schools to look at, so the school safety had been completed when the firm was contracted by TPS to do the Educare impact study. It was acknowledged in Option #1 that the traffic needed to be separated from Celia Clinton and Educare, and it was recommended to have an operational plan that would keep Celia Clinton traffic in the pattern that it is today, on Seminole, and Educare would use Queen Street and the newly built Florence for access to Educare. This plan would entail the school increasing their operational procedures at their site during pick up because several like to pick up their children from school. There were over 150 parents that came to pick up their children on a regular basis at the school, and they do use Seminole for the pick-up operation. It was also recommended to have a traffic signal be installed at Harvard and Seminole so there would be a full signal actuated for cars and pedestrians. That will speed up exiting traffic from Seminole and the school. Ms. Shaw-Smith stated that it has also been recommended to increase enforcement of

the no parking signs that are along Seminole. Tulsa Police Department and the school have been asked to have periodic enforcement of the no parking zones as well. Option #2 was based solely on the need to help the neighbors and to try to get Celia Clinton traffic off Seminole. So, another option was looked at where both schools would use Florence, and Florence would be made wider to accommodate a lane to go to Educare and a lane that would go to Celia Clinton. With this existing traffic would be taken off Seminole. With Option #2 there is plenty of stacking room, 1,600 feet of stacking room before impacting Harvard, for Educare and Celia Clinton. The maximum queues, if everyone should arrive at the same time, would be about 1,100 feet for Option #2. Educare should not significantly impact Seminole. The number of cars in the peak hour for Educare is just over 100 peak hour trips.

Mr. Van De Wiele asked Ms. Shaw-Smith if it was known which option the two facilities have opted for at this point. Ms. Shaw-Smith stated that right now they are proceeding with Option #2.

Mr. Van De Wiele asked Ms. Shaw-Smith how the plan will be implemented and enforced. Ms. Shaw-Smith stated the best thing is to get the parents and the kids on board, the school has to give out the operations plan at the very beginning of the school year. It is all about the education of the parents and the students and having enough staff members outside for the first two or three weeks to make sure everyone is following the pattern. There will always be the 1% or 2% that rules don't apply to but overall if the parents are given a good plan on what to do, they will follow it.

Ms. Radney asked Ms. Shaw-Smith if a queuing analysis had been done for the Celia Clinton population. Ms. Shaw-Smith stated that Celia Clinton had been observed previously in the school safety study, and a queueing analysis was done on Seminole during pick up because that the longest queue length; morning drop off time tends not to be as long as the pick-up time. There were queues almost to Harvard, but they did not encroach upon Harvard; they used the entire parking lot frontage where there are three lines to maximize the parking lot space. Ms. Radney asked if there had been a numerical analysis done. Ms. Shaw-Smith stated the cars were counted, there were 45 in the queue for the peak at five-minute queue counts for the Celia Clinton school safety study. The analysis was observational for Celia Clinton and the analysis for Educare was computational because they are estimates for the number of trips that are generated.

Ms. Shaw-Smith stated that queue length is determined at 25 feet per car, and the estimate for Celia Clinton was about 1,100 feet leaving about 500 feet to be used if needed.

Ms. Radney asked Ms. Shaw-Smith how many dedicated parking spaces are there for parents? Ms. Shaw-Smith stated that right now there is the front row that visitor type parents which is about 20 spaces, and the side lot is used mostly by staff members.

Ms. Radney asked Ms. Shaw-Smith if the existing parking for Celia Clinton is less than what is allocated parking for Educare. Ms. Shaw-Smith stated the pick-up operations is a lot different for Educare. All of the Educare parents are required to park and walk in. At an elementary school that provides a pick-up operation the parents do not have to park and come into the school. It is a different scenario as to why Educare is going to need more spaces than Celia Clinton.

Tanya Davis, Principal of Celia Clinton Elementary School, 1740 North Harvard, Tulsa, OK; stated she is very excited for the opportunity for Educare to go in because the children will be educated from six weeks to age three, then they will come into Celia Clinton much more prepared. The drop off is a lot easier because there is staff outside at 7:00 A.M., there are three lanes with Teacher Assistants, there is a safety patrol on the sidewalk, and the children are walked into the door. If the children arrive before 7:20 A.M. there are two adults outside on the sidewalk that monitor the children. At 7:20 A.M. the school doors open, and the Teacher Assistants are still outside bringing the children in from the parking lot. Drop off in the morning is not as big a problem as dismissal. For dismissal the parents have a placard in the windshield, so the staff know those cars go into the third lane. School dismisses at 2:35 and everyone is back in the building at 2:50 P.M., after that the parents must park, come inside and pick up their child.

Mr. Van De Wiele asked Ms. Davis how the school kept the parents from stacking up early to the west down to the dead end on Seminole. Ms. Davis stated that the cul-de-sac was installed a few years ago because of the back up on Harvard. Some of the issues are the parents that like to get out of the car and find their child and walk back to the car with their child, because it takes that parent longer, but it is their preference. The gravel was poured along the side of the street for the cars that park and all other cars keep moving.

Mr. Van De Wiele asked Ms. Davis if the new Florence were installed is it her commitment to the neighbors that stacking will be on Florence and not on Seminole. Ms. Davis stated she cannot control every parent even though she does her best. The way the traffic pattern would go the parents should not even be going down Seminole. Ms. Davis stated when the cul-de-sac was completed there was a map handed to every parent, in English and in Spanish, and there was a meeting with interpreters to explain the traffic pattern. That is what will have to be done again; retraining of the parents and children.

Deborah Gist, Superintendent of Tulsa Public Schools, 6232 South Jamestown Avenue, Tulsa, OK; stated these changes will mean safer access for the children, less congestion, and improved access to greenspace. Campus Police can bring in additional officers to help the schools get the traffic flow patterns into place, and it would be done in this instance. This is creating an incredible high-quality early childhood education center for the community. Tulsa is a model for the country in terms of quality early childhood experiences. Early childhood matters for the children. This center will make a difference for Celia Clinton and for the young children who are able to

participate in the Educare experience, but it will also make a difference for the children around them because overall it lifts up the experience that every child in the school receives. A lot of research has been conducted in Tulsa that is used nationally, and it demonstrates not only does it affect the children who have the experience and the children around them. Not only does it affect their readiness and their quality of experience in elementary school, but it actually has benefits that demonstrate the children are more likely to stay in school, to graduate, to rely less on social services, and to contribute to society in different ways. Overall, this has a massive impact on Tulsa. Ms. Gist stated there about 1,500 children under the age of five living within a mile of the school. This is a need and Educare would serve a fraction of those. This is a very positive thing for the families, for the children, and for the community overall.

Interested Parties:

Rachel Stagner-Farrell, 7304 South 99th East Avenue, Apt. 711, Tulsa, OK; stated she is a parent of Tulsa Educare and her daughter was in the program for four years and has graduated to public school. She was a parent that was hesitant of putting her daughter into any type of daycare or early learning academy. A friend steered her toward Educare. Being in the program has changed her daughter's life and hers as well. Ms. Stagner-Farrell stated that she just had her first parent-teacher conference and her daughter has excelled in every category. This is what Educare is about, getting the early childhood education and giving the children a step ahead of the rest in today's world. Ms. Stagner-Farrell stated there have been so many things that Educare has brought to her life and to have the opportunity to service even a fraction of the 1,500 children, how can the community not do this?

Ms. Radney congratulated Ms. Stagner-Farrell for seeing the civics homework that needed to be done. As one of the volunteers on this panel for the Board of Adjustment she would applaud Ms. Stagner-Farrell. Democracy is not a spectator sport.

Nick Doctor, Chief of Community Development for Mayor Bynum's Office for the City of Tulsa, 175 East 2nd Street, Tulsa, OK; stated that part of the Vision Tulsa package that voters approved in 2016 had \$14.5 million dollars for a safety first initiative, and it was a partnership between the City of Tulsa and Tulsa Public Schools to ensure there were safe routes to elementary schools in particular. Celia Clinton is one of the Tier 1 schools for the City of Tulsa and one of the locations the City is prioritizing for that work. A lot of that work has begun now, and Lee Engineering was one of the firms that was contracted with the City of Tulsa to perform the analysis of the school sites, and they have done 40 of the studies for the City for Tier 1 and Tier 2 schools. The implementation phases of those studies are beginning now. To speak to Celia Clinton specifically, the City is in the middle of the design phase for the improvements that were presented in Option #1, in particular, and Option #2 has the third lane added to it. The infrastructure that is required for that is being considered as part of the design work now. The City expects the design work to be complete by January or February 2019 and going through all the construction required for those improvements by the summer of 2019. There is a little over \$300,000 in improvements that will entail and that includes \$180,000 for a new traffic signal at Seminole and Harvard; \$30,000 for a new

bus shelter; \$16,000 for four new school zone beacons to calm traffic on Harvard; \$8,400 for new crosswalks at Seminole and Harvard and at Queen and Harvard; and \$8,000 for new signs directing traffic. The no parking signs have already been installed and TPS and TPD are beginning to enforce those.

Ms. Radney asked Mr. Doctor if there was a way the City could stripe the areas in front of the resident's driveways to keep the wayward parents from blocking driveways. Mr. Doctor stated he could investigate that further, but it has not been discussed.

Fran Trujillo, 6812 South 230th East Avenue, Broken Arrow, OK; stated she is a nurse educator and is one of the nurses that taught classes at Educare I. The program started in 2008 and it made a great impact on one of the mothers. Some of the mothers became nurses and one is in the nursing program to be a Nurse Practitioner while another is going to get her Master's Degree in Nursing. This is the impact that has been brought by the programs being offered at Educare. Ms. Trujillo stated that the maternal mortality rate is number one in Oklahoma and Educare has a program that has been focused on improving the health of the child bearing woman. Educare makes not just an impact on the children by educating them but by providing them healthy mothers.

Ms. Radney thanked Ms. Trujillo for her service, and she agreed with Ms. Trujillo that Educare is a great model for helping parents to see that they can have hope for more for their children. That is a wonderful gift.

Molly Bryant, 4911 South Madison Avenue, Tulsa, OK; stated she is the representative for Domestic Violence Intervention Services which is located at Harvard and Apache, a half mile from Celia Clinton. This connects families to the community and the more connection parents have to service providers the greater chance they will actually access services from DVIS and other services. It also reduces child abuse. When the children are in Educare and pre-school there are parents that are able to have a break. What matters most to the survivors of domestic violence is that it increases economic stability; 74% of survivors of domestic violence stay in abusive relationships because they are not financially able to leave. If there is more access to affordable or free child care and pre-K, especially mothers who are able to work outside of the home, they are able to be financially independent and leave the abusive relationship. There are a lot of reasons Educare would improve the livelihood of DVIS clients. On behalf of DVIS staff, they will gladly spend an extra five or ten minutes at any point in the day to wait in traffic if that means there is more affordable child care in the community. There is no way to create safety in the community unless there is opportunity for economic stability for DVIS clients.

Bob Buchanan, P. O. Box 54339, Tulsa, OK; stated he is fully in agreement with Educare and thinks it is real important. The real issue is traffic. Springdale Park is about one mile from Celia Clinton, and it also has three or four schools around it which includes Celia Clinton that have as high a need as Celia Clinton. If Educare is allowed to come it will add 700 car trips daily; there is 160 people coming in and leaving twice a day. He noticed in the traffic report there is no allowance made for shift changes. After

a 12-hour work day at the school and there will be 50 or 60 employees that will be in a shift change, so that is possibly another 120 trips in and out that has not been accounted for. The neighborhood is not against Educare, but the neighbors are trying to grasp some sense of sanity in the traffic. In the original report that was done in August for the different conditions of people parking wherever they want on Queen, there is about 40 cars on Queen while about 150 cars are queued on Seminole. It was not the neighborhood's suggestion to take traffic off Seminole and he does not think it is a good idea because people will be queued out on Harvard. Mr. Buchanan believes that Springdale Park has no residents in the area, there is an entry and an exit, and there is no issue of blocking people in from the traffic congestion; it is the perfect situation and it is still within the center of an area that the students will be served by it and there are three other schools that could also be served.

Ms. Ross stated that she heard Mr. Buchanan say it was not the neighborhood's goal to get the traffic off Seminole, but that is not what she has heard at the prior meetings, so she is confused. Ms. Ross stated that what she sees TPS, the City and Educare doing is trying to get the traffic off Seminole so that residents can back out of their driveways, enforce the parking with TPD and through the use of the TPS security, and they are installing a traffic signal so people turning left onto Harvard can get out of the area quicker. Ms. Ross asked Mr. Buchanan for clarification. Mr. Buchanan stated that he does not see how traffic will not be queued onto Harvard. The traffic coming and out of Educare already has 40 people parking along the street on Queen, run all the traffic that is queued on Seminole which ends up being about 60 cars which does not include what is in the parking lot; there are three lines of traffic on Seminole to go into the school. There is another 30 or 40 cars lined up to go out, then there are 45 cars on Queen Street that completely plug up the street. Now there will be 700 cars a day coming and going, which is double what is there now. Mr. Buchanan stated that traffic getting out onto Queen Street to turn onto Harvard is a bad intersection because traffic crests a hill and people are trying to get out; that area makes him nervous. What he would really like to see is have Educare someplace else and not compound the traffic problems, leaving the residents with the park.

Mr. Bond asked Mr. Buchanan if he was opposed to any school on the subject property because of the traffic. Mr. Buchanan stated he is being honest and be a good community person.

Connie Page, 3025 East Seminole Street, Tulsa, OK; stated she has lived in the neighborhood most of her life. Ms. Page stated that when Celia Clinton was doubled in size and the problem came up of the queueing on Harvard, the large circle at the end of the street was to be solution. The big circle at the end of the drive caused the present traffic issues. The residents are not against Educare and she believes in early education, but that is not the point. The point here is that she believes the residents have been told certain things that are not true. Ms. Page stated there were "Do Not Block Driveways" signs erected along the street in the past couple of weeks, but it has not stopped driveways being blocked. Ms. Page stated she has not seen any officers issuing tickets. Ms. Page stated this is an enforcement problem. If Educare is put in

and everything is required to go in off Queen it will set up another queueing out onto Harvard, and everyone will have the same problem when Celia Clinton was doubled in size. If Option 2 is chosen and everything is run to Celia Clinton with a third lane and the traffic signal being installed that will allow the traffic to move faster. The residents have open minds and they are not against Educare, they are against traffic and the chaos that is caused. The science of the traffic looks great except it is our contention that there are many variables left out of their analysis due to the limitations of the methodology when applied to urban streets. Ms. Page quoted, "Urban street speed is computed by HCS, which is the methodology that was used for the traffic study, is computed but not delay. Mean and total facility delay can be estimated manually by the analyst using the HCS outputs as described for freeway facilities. She has no way of knowing if the people that did the traffic study manually computed the grades that were so glowing with traffic safety. The HCS does directly compute delay for each individual signalized intersection as described above under speed estimation for urban streets. Unsignalized intersection delay is computed by HCS using an intersection approach delay formula similar to the one described above for signalized intersections"; HCS being the Highway Capacity Manual. Ms. Page quoted several more sections from *Traffic Analysis Toolbox Volume VI, Calculations of MOEs by Traffic Analytical Tools*. Ms. Page stated she has problems with their methodology. Ms. Page quoted from *Livable Streets Connecting People and Places, Traffic Engineering Myths Revealed*, dated August 21, 2009 by Steven Miller and from *Project for Public Spaces*. Ms. Page stated that it is time for communities and transportation professionals to accept that we have been using the wrong tools for the wrong job. They can come up with traffic modeling all they want, she has lived through their version of traffic modeling for several years and for the past several years she has not been able to get out of her driveway. Ms. Page stated she does not trust traffic engineers and she thinks she has shown why she does not trust them, and she believes that the residents do not have much power. Ms. Page stated she is not against Educare and thinks there are several other viable options that would prevent the park from being taken away leaving the green space for the community and could alleviate the traffic issues.

Luwanna Horn, 3107 East Seminole Street, Tulsa, OK; stated that none of the residents are against education because education is good. Ms. Horn stated the residents do not want a school to replace the park. There are over 165 parents and children and 40 employees that are part of the traffic issues. When Option #2 was suggested at the neighborhood meeting it was big juicy carrot for residents. That option promised to take all of the traffic issues away that have been dealt with on Seminole for years, especially the last four or more years since the traffic circle was installed. The residents do not want the traffic issues to be moved to Queen Street for those neighbors to deal with. Ms. Horn stated she spoke with the residents living on Queen Street, Florence Place and Florence Avenue about the proposed plans and they do not want the traffic. Ms. Horn presented pictures that she took today of traffic in the neighborhood and stated the signs that were erected do not work because driveways are still blocked.

Rebuttal:

Josh Miller came forward and stated that Celia Clinton does not have shift changes and Educare has four or five employees that leave a little past lunch. The turn right leaving the Educare parking lot isn't recommended. Educare has a drop off time of 7:00 A.M. to 9:00 A.M. and 4:00 P.M. to 6:00 P.M. is the pick-up time which is nonconflicting. The TPS Police have been in the neighborhood a couple of times a week over the last few weeks and has issued one ticket trying to enforce. Obviously, the neighbors are highly frustrated with the existing condition, and he certainly understands that, but it will all change with the improvements as well as the school safety. The sidewalks and the crosswalks have not been installed as of yet. The traffic signal will be installed this summer, so the school traffic will have an opportunity to adjust to the light almost an entire school year before Educare is even built. The City and TPS sat together, analyzed all the schools within the area of need before choosing the subject site. Mr. Miller stated that Option #2 is clearly the option being proposed in this case and there would be a third lane for traffic. The third lane will be a full regulation lane width and will comply with all City regulations because it will be a city street. There will also be a median installed to insure the Educare traffic turns left into their parent parking lot.

Esther Shaw-Smith came forward and stated the research presented to the Board was done in 2005 with HCS software which is Highway Capacity Software. Lee Engineering did not use HCS for this analysis, they used Synchro SemTraffic which is a software package developed by Traffic Ware. It is based on the latest edition of the highway capacity manual that was issued in 2016. The document the neighbors provided is an old HCM version in 2000. The HCM has been cognizant that people are changing the way they drive, and it is not vehicle centric anymore. The HCM 2016 does a very good job incorporating the multi-modal uses of urban streets. Lee Engineering does not want to just rely on the traffic, they want to make things safer for pedestrian and students. Levels of service and the queueing can be intimidating but it is her job. It is what she has to do to get this approved by the City so that it is a reputable traffic study that is using industry standard methodologies.

Comments and Questions:

Ms. Back stated this is a very delicate matter for the neighbors and Tulsa Public Schools for the subject property. Celia Clinton is a Tulsa Public School and that is not before the Board, and it is unfortunate that the traffic has impacted the neighbors as it has. At the last meeting the Board encouraged Tulsa Public Schools to step up to the plate and do something. Tulsa Public Schools has the Superintendent and other staff in attendance today. The City has installed signs. Superintendent Gist has stated that the Tulsa campus police will be at the site to help enforce the new traffic pattern, and Ms. Back stated she has to trust Ms. Gist by doing what she says she will do. Things are happening to help the residents with relief in the neighborhood. The site has been redesigned, again, and she believes Option #2 with the third lane being submitted today is an excellent design and an excellent addition to the community.

Ms. Ross stated that she agrees with Ms. Back. Ms. Ross understands from the resident's perspective is the traffic issue, but what she is not hearing is any

acknowledgment of how the new design is actually going to help the traffic situation. What is being ignored is that Florence Place is going to relieve a lot of the congestion and it will not be in front of any houses or driveways. There has actually been created a lot more ways of getting in and out of Celia Clinton and Educare with this design.

Mr. Bond stated that he voted no at the last meeting, because he felt like the traffic situation was abhorrent and needed to be addressed. He believes that the City and the school system has come back with a better solution. He would be inclined to vote for Option #2 with the third lane. He thinks the situation the residents are facing now will be alleviated. No traffic plan is perfect, but the City has traffic engineers that are here now to present the plan. The contention that no school can go on the subject property he does not agree with in any way. The better relationship everyone has with the school, the more invested the neighbors are in the success of both Celia Clinton and Educare the better the residents will have the ability to pick up the telephone and call to talk about ways to fix the traffic problems and make it a safer place.

Ms. Radney stated that her opinion of the current Option #2 plan is that it is a vast improvement over the first. She also acknowledges that it likely would have never come about except for the objection of the neighborhood. Ms. Radney thanked the neighbors for being steadfast in their position. She is a little less forgiving of the City and the Tulsa Public Schools; Educare is a captive tenant of Tulsa Public Schools. The issues that have been before the Board have had one primary stake holder. Ms. Radney stated she is still going to vote no. She is for the school and the Educare facility being in the district, she still thinks that Seminole and Queen don't have the capacity to bear this much traffic. She concurs with the residents, this is not the best use of this land, but the neighborhood will benefit by having Educare.

Mr. Van De Wiele stated that he does not think it was the intention of TPS or Educare, but from the Board's standpoint collectively, there was not an insinuation that the neighbors were against the mission of Educare. The one thing that he would say to Tulsa Public Schools, and he has been on the Board for nine years, we have seen things like this at other schools and he is hoping it is eye opening and ear opening for the schools. The schools are a wonderful service for the City and for the students but in these neighborhoods where schools are, where parents now drive to pick up their children more than they did 20 or 30 years ago there is an opportunity to become less than a good neighbor. Mr. Van De Wiele implored the school to be a good neighbor, and if that means walking down Seminole and telling parents to move their car and doing it everyday until they continue to not do it. It's not as simple a fix as handing the parents a flyer, the school will have to be firm until the parents correct their behavior. The neighbors need to continue to be a thorn in the school's side and the Mayor's side. The Board has heard from the City, the school, and the Mayor's office that they all support this request, but it doesn't need to be at the resident's cost. It shouldn't be at the resident's cost. He thinks the Board has seen a better plan put before them and he does not think that would have come about but for the residents being the thorn in everybody's side.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-1-0 (Back, Bond, Ross, Van De Wiele "aye"; Radney "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a school use in an RS-3 District (Section 5.020-C), subject to conceptual plans submitted today known as Option #2 with the third lane. The street is to be installed at Seminole and Harvard this coming summer of 2018, and per the City's financial commitment as noted today on the record by Mr. Nick Doctor from the Mayor's office. 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:

NW SE SE LESS N25 FOR RD SEC 29 20 13 9.62 ACS, City of Tulsa, Tulsa County, State of Oklahoma

22505—Mark Capron

Action Requested:

Variance to permit a structure to be located within City of Tulsa planned street right-of-way (Section 90.090-A); Variance of the removal agreement requirement with the City of Tulsa for structures in the planned street right-of-way (Section 90.090-A). **LOCATION:** 1202 & 1206 East 3rd Street South (**CD 4**)

Presentation:

Mark Capron, 6111 East 32nd Place, Tulsa, OK; stated this request is for a small awkward small piece of property. Anytime there is a right-of-way closed down it goes through a process through Mr. Kovak's office who is the utilities coordinator at 23rd and Jackson. There is an alleyway closing right now. The proposal is staying out of the existing right-of-way, but the planned right-of-way encroaches into the property. The planners are excited about the project and do not have a problem with the right-of-way staying where it is. Mr. Capron stated that there have been meetings with all the utilities and all the concerns have been addressed.

Mr. Van De Wiele asked Mr. Capron if he had crossed any hurdles regarding the site lines with the traffic department. Mr. Capron stated that is one of things that came up with the City of Tulsa and it has been addressed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a

Variance to permit a structure to be located within City of Tulsa planned street right-of-way (Section 90.090-A); Variance of the removal agreement requirement with the City of Tulsa for structures in the planned street right-of-way (Section 90.090-A), subject to the conceptual plan dated August 8, 2018. The Board finds the hardship to be the size of the lot and the shape of the lot. 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:

LOTS FOURTEEN (14) AND FIFTEEN (15), BLOCK EIGHTEEN (18), BERRY ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF.

AND

THAT PART OF LOTS ELEVEN (11), TWELVE (12) AND THIRTEEN (13), BLOCK EIGHTEEN (18), BERRY ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT THIRTEEN (13); THENCE EAST ON THE NORTH LINE OF LOTS THIRTEEN (13), TWELVE (12), AND ELEVEN (11) TO THE NORTHEAST CORNER OF SAID LOT ELEVEN (11); THENCE SOUTHWESTERLY TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF THE M.K.T. RAILWAY, SAID POINT BEING FIVE AND FIVE-TENTHS (5.5) FEET NORTHWESTERLY OF THE SOUTHEAST CORNER OF SAID LOT THIRTEEN (13); THENCE NORTHWESTERLY ON SAID RIGHT-OF-WAY LINE TO THE SOUTHWEST CORNER OF SAID LOT THIRTEEN (13); THENCE NORTH ON THE WEST LINE OF LOT THIRTEEN (13) TO THE POINT OF BEGINNING., City of Tulsa, Tulsa County, State of Oklahoma

22520—Eddie James

Action Requested:

Appeal of a Decision by the Tulsa Preservation Commission to deny Historic Permit Application (HP-18-030); Special Exception to permit a carport in the street setback and street yard; to allow the area to exceed 20 feet in length and 20 feet in width; to exceed the maximum distance allowed to project in the street setback; to allow for the sides of the carport to be obstructed within the required street setback (Section 90.090-C.1). **LOCATION:** 1591 East Swan Drive South **(CD 4)**

Mr. Van De Wiele stated that typically the way appeals are handled is the Board has the city department that rendered the decision speak first and then the applicant will have a chance to speak.

Presentation:

Jed Porter, Historic Preservation Planner, City of Tulsa, 175 East 2nd Street, Tulsa, OK; stated the residents of Swan Lake requested an implementation of an overlay to protect the character of the neighborhood. That implementation was approved in February 1994. For the past 24 years the neighbors have relied on the Tulsa Preservation Commission through its application of the unified design guidelines to preserve the character of the neighborhood. As directed by the Zoning Code Tulsa Preservation Commission strives to balance the intention of the unified design guidelines with the request of an owner. The rate of approval of applications is over 90% and indicates that the Tulsa Preservation Commission has struck that balance, that owners have been accommodated. When denial occurs, it is a rare event and for a very good reason. In this particular incidence it is because the proposal fails to comply with the unified design guidelines, specifically with guidelines B6.1 and B6.2. As indicated in his correspondence dated October 15th, that was directed to the Board of Adjustment, the installation of the garage door would detract from the appearance of the residence and diminish the character of Swan Lake as a district. Mr. Porter respectfully requested the Board of Adjustment affirm the decision of the Tulsa Preservation Commission and deny the appeal.

Mr. Van De Wiele asked if the guidelines B6.1 and B6.2 were specific to the subject neighborhood or are those the design guidelines for HP. Mr. Porter stated they are applied to every district.

Mr. Van De Wiele asked Mr. Porter if the home owner needed approval for the carport from the Preservation Commission or is it just for the garage. Mr. Porter stated there is already an enclosure on the site, and the proposal was for a creation of a cover for protection for vehicles. That proposal was approved with the condition that the cover be independently supported by columns and be concealed by a band around the top of the enclosure so there would not be any visible impact on the residence on the site.

Mr. Bond asked Mr. Porter if he knew when the subject house was built. Mr. Porter stated the original section of the house was built in 1930, and there has been considerable modification.

Ms. Ross asked Mr. Porter to explain the B6.1 and B6.2 guidelines in plain English for the Board to understand, because she is having a hard time deciphering. Mr. Porter stated that Section B of the unified design guidelines refers specifically to additions; guideline B6.1 devises that when a garage is constructed it should be detached and located to the rear of the yard and not attached to the primary residence. That is the preference. That observes the character of the district; it is a common feature in this landscape. Guideline B6.2 advises that if a garage is attached that it is placed away from the front of the residence, recessed in position and that it is fixed so that it does not extend past the face or the façade of the residence, and it would certainly never extend into the street yard.

Mr. Van De Wiele asked Ms. Miller if the rear yard definition in the Zoning Code is the same as the rear yard definition for the preservation guidelines. Ms. Miller answered affirmatively.

Eddie James, P. O. Box 606, Collinsville, OK; stated he has been working with the Historical Preservation Commission for about a year and have reached an agreeable plan that works with the shape of the lot. The rear would not hold a garage and there is no place to place a garage. This is an already enclosed courtyard/motor court with gates where cars are being parked now. He would just like to have a cover. The width of the cover, the width of the door, and the design is driven by the one-way part of Swan Lake. You can't really make the radius to turn in unless there is a wide opening and operating door works a lot better than gates to get in and out of the garage. This would be a little wider than the standard carport because there is a brick wall not allowing two cars to be parked side by side and still open the car doors.

Interested Parties:

Ted Reeds, 2872 East 35th Place, Tulsa, OK; stated this is a difficult site and this has gone through the subcommittee, which is like a design review, and the committee helps the homeowner solve the issues. The committee got to the point where the homeowner could install a cover or a carport. Even though it is in the front yard the committee approved it with full commission. Where the difficulty arose was the desire to install a solid opaque garage door directly on Swan Lake. It belies the character of the neighborhood and the drive. The committee understands this is a difficult site, but the commission feels they have worked with the homeowner and have given him his desired security among other things. Under this application previously the commission okayed a security fence and an entry gate that is at the top of new steps for security. The gates at the front are iron which are existing. The homeowner can install an operable gate as easily as he can install an operable garage door, which was discussed at the last commission meeting.

Mr. Van De Wiele asked staff if there is an operable gate on the front of a carport is it just a design issue, or does it then become a garage door? Ms. Blank stated the Preservation approval is to appearance and then there is the zoning code aspect, which is going to be the Special Exception. There is a number of criteria for having a carport and one of them is the obstruction of the side. Currently, on the appeal, the Board is being asked to decide whether or not the Commission's denial of the garage door on the front should be overturned or upheld. Mr. Van De Wiele asked if a carport were allowed with the gate that exists to remain is that one in the same thing? Ms. Blank stated there is not a dimension site plan but there is a requirement that a fence be four feet high maximum, but there are technical issues.

Mr. Reeds stated the Commission had approved a carport previously about six years ago and it expired. The carport that was approved was not as opaque as what is approved now.

Chip Atkins, 1638 East 17th Place, Tulsa, OK; stated he sits on the Sub-Committee of the Tulsa Preservation Commission. He voted no for the garage doors and for the carport. This projection once was a one car garage that attached to the house, where the tower is on the east side. This came before either TMAPC or BOA to have the courtyard. The courtyard was put in and the neighbors were worried about it becoming a garage in the front yard. The reason it is open is, so people can entertain in front and still have parking off the street because the one-car garage and driveway was removed. This was approved with the condition that the area would never be closed in. At the Tulsa Preservation Commission sub-committee meeting he brought up that the carport itself did not meet the ordinance of the City Code based on 90.6; "the area of the carport may not exceed 20'-0" x 20'-0". The homeowner has a 26'-0" x 22'-0" free standing carport. The west, east and north sides of the carport has a brick enclosure that is 7'-0" high and there is a wall enclosure on the south side. Basically, there is an enclosure all the way around the carport that exceeds 15% over the recommendation of the Code. The homeowner has stated the area would be used strictly for cars but then said it was a courtyard for entertainment purposes also. Mr. Atkins is interested to know if the area is still going to be used for entertainment purposes or what it is going to be used for. The gates were pre-existing to the project, so whatever is put in will still need to be reviewed by the Tulsa Preservation Commission because it has changed. Code states the garage door has to be 20 feet from the sidewalk or the street, and these are less than that. At the sub-committee meeting he made the comment that in the preservation code, the City Code states that if there is a new element introduced into the neighborhood or if there is a new structure introduced it has to be reviewed. There is no carport or garage such this anywhere in the neighborhood. Mr. Atkins asks the Board to uphold the appeal of the TPC. He wants to leave the area as is because he thinks that is what it was meant to be, and he thinks that is what the neighbors to the east want.

Mr. Bond left the meeting at 3:10 P.M.

Rebuttal:

Jed Porter came forward and stated the site and the proposal posed challenges, but the Tulsa Preservation Commission strived to strike a balance. The installation of the carport would not significantly alter the appearance of the residence, however, the installation of the garage door would detract from its appearance and diminish the character of the district, so the Tulsa Preservation Commission voted to deny the proposal for the installation of the door.

Mr. Bond re-entered the meeting at 3:12 P.M.

TPC is well aware that the request for a Special Exception would defer to the Board of Adjustment for review. If the Board directs the homeowner to modify his design, he would be required to return to the Tulsa Preservation Commission. Amendments to approved proposals are not uncommon and TPC has a procedure developed to ensure a speedy review with a satisfactory resolution.

Eddie James came forward and stated the decision on the front, whether the gates are left on or the garage door is installed, in his opinion the aesthetics are great and matches the house. It is a non-contributing structure and is no where near the original house. The courtyard is going to be used for cars but there is an area of the courtyard that has a fountain with chairs for seating behind a door making a protected courtyard. Because of the limited on-street parking, parking in the subject area make sense. Whether it is covered or not it is a parking area. The house is in a high traffic area and security has been issue.

Comments and Questions:

Mr. Bond stated he does not see how this house is a contributing factor because it is a modern house. He does see the objections to the garage door. Historic or not he would not vote for the carport, so he could not vote to overturn the Tulsa Historic Preservation Commission.

Ms. Back stated the Board of Adjustment did approve a carport at the subject site in 2012, and she thinks it is a very odd design. She likes the gates. This one of the nicest historic neighborhoods and this is the front of the house. She is on the fence whether to approve the carport again. She cannot approve the garage door.

Ms. Radney stated she would support the Tulsa Historic Preservation Commission's decision. She is opposed to the garage door.

Ms. Ross stated she is in favor of the carport and she thinks there is a hardship because there is reason for the carport. As for the garage door she understands why the homeowner wants it, but it is in an HP district. When a person buys in a historic preservation neighborhood there are a lot of restrictions. Ms. Ross thinks the design looks nice, but she thinks the Preservation Commission has already granted the

homeowner some relief in letting him have a carport and allowing it in the street setback. Even though she likes the design she thinks it is pushing things a little too far.

Mr. Van De Wiele stated he does not have an issue with the carport to the extent that there is a vote to support the carport. He would be opposed to the garage door. Whether it is a contributing structure or not Swan Lake is one of the unique neighborhoods in Tulsa. Mr. Van De Wiele stated he would vote to deny the appeal and to grant the Special Exception to permit the carport and to allow it to exceed the area and exceed the distance from the street setback and deny to allow the sides to be obstructed within the street setback.

Board Action:

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **DENY** the request for an Appeal and **UPHOLD** the Decision by the Tulsa Preservation Commission to deny Historic Permit Application (HP-18-030); for the following property:

E 78 LT 11 BLK 1, SWAN PARK, City of Tulsa, Tulsa County, State of Oklahoma

On **MOTION** of **BACK**, the Board voted 3-2-0 (Back, Ross, Van De Wiele "aye"; Bond, Radney "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a carport in the street setback and street yard; to allow the area to exceed 20 feet in length and 20 feet in width; to exceed the maximum distance allowed to project in the street setback; and **DENY** the Special Exception to allow for the sides of the carport to be obstructed within the required street setback (Section 90.090-C.1), subject to the conceptual plans as approved by the Historic Preservation Commission in HP1803.03 dated August 21, 2018. The carport is to be freestanding within the existing courtyard area as shown on exhibit 5.23 of the agenda packet and will have unobstructed sides. The height is to be no taller than the existing brick walls. 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:

E 78 LT 11 BLK 1, SWAN PARK, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

22523—Eller & Detrich – Nathalie Cornett

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 feet from another outdoor advertising sign on the same side of the highway (Section

60.080-F.5); Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 feet from any other digital outdoor advertising sign facing the same traveled way (Section 60.100). **LOCATION:** 10210 East 91st Street South **(CD 7)**

Presentation:

Nathalie Cornett, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated this is a spacing verification for a digital billboard located at 91st and Creek Turnpike. The previous spacing that was approved in 2009 was for a sign that was never erected on Lot 3, and today's request is for Lot 2.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing between outdoor advertising signs for either a dynamic display or conventional billboard subject to the action of the Board being null and void should another dynamic display and/or standard outdoor advertising sign be erected within the required spacing radius prior to this sign; for the following property:

LTS 2 - 4 BLK 1, CROSSROADS VILLAGE, City of Tulsa, Tulsa County, State of Oklahoma

22511—Erick Ethridge

Action Requested:

Variance of the minimum lot width in an RS-1 District to permit a lot split (Section 5.030, Table 5-3). **LOCATION:** 4647 South Columbia Place East **(CD 9)**

Presentation:

Erick Ethridge, 1332 South Florence Place, Tulsa, OK; stated the proposed lots will have the correct amount of square footage for RS-1 but the dimensions of the current lot are restrictive. The southern lot could be turned to the south to face 47th Street and the lot to the north would be ten feet off.

Mr. Van De Wiele asked Mr. Ethridge why he wouldn't move the line ten feet to the south. Mr. Ethridge stated that the lot on the south then would not be 13,500 square feet for the minimum lot size.

Mr. Van De Wiele asked Mr. Ethridge to state his hardship. Mr. Ethridge stated the lot will have the correct square footage but there is no way to split the lot and maintain the correct square footage.

Ms. Ross asked Mr. Ethridge what his plans are for the lots. Mr. Ethridge stated that he will be selling them.

Mr. Van De Wiele asked Mr. Ethridge if he knew how wide the lot to the north is. Mr. Ethridge stated that he did not know.

Interested Parties:

Steve Baker, 4635 South Columbia Place, Tulsa, OK; stated he has lived in the neighborhood off and on since 1974. For 40 years or so splitting lots has been an issue in the neighborhood. The street is not curb and gutter, it is bar ditch. There have been two previous corner lots that have been subdivided, however, they were 220 feet so there was enough room to do the division. Those lots still look a little odd, but it did occur. There are eight other examples in the area that just the opposite is going on; people add on to their existing residences by acquiring lots. The trend in the area seems to be to not subdivide but actually add to. Mr. Baker stated his property is to the north of the subject property and his lot is 125 feet wide, or 7/8 of an acre. Mr. Baker stated today's request is counter to the trend in the area.

JoAnn Huber, 4710 South Columbia Place, Tulsa, OK; stated she lives diagonal from the subject property. Ms. Huber stated that her lot and the lots on either side of her are 9/10 of an acre. She moved to the neighborhood in 1976 because of the large lots and the green spaces. Ms. Huber thinks if the lot split happens some of the old large trees would have to be removed and that would change the character of the area. The neighborhood has deep ditches, narrow streets and there are no sidewalks. She thinks this Variance would also affect the habitat of wildlife that is in the area. There is already additional traffic in the area due to the construction at 51st Street and I-44. This is a disturbing precedent to be allowed and she would like to see the integrity of the neighborhood be preserved.

Rebuttal:

Erick Ethridge came forward and stated there are quite a few other lots splits that are happening and have happened in the area. Mr. Ethridge stated that he would still be within the zoning requirements if granted the Variance.

Mr. Van De Wiele stated that some of the lots that may have been split may have had sufficient depth, and that is where he is trying to get to a hardship. The Board has to have a hardship that is not self-imposed.

Mr. Ethridge stated that he thinks it is the formula used. It is just the dimension of the lot that is a few feet off. He does not think being ten feet off a person would have to actually use a tape measure to see that it is smaller.

Ms. Ulmer stated for a point of information that the first lot split did not go through the official lot split process but was split by deed. The first lot split has been a deed of record for longer than five years.

Comments and Questions:

Ms. Back stated she cannot support this request because she cannot see where the hardship is not a self-imposed hardship. There is nothing to say this needs to be done to better the neighborhood, and she thinks it would be detrimental to the neighborhood.

Ms. Ross agreed with Ms. Back. The large lot sizes are a huge characteristic of the neighborhood.

Board Action:

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **DENY** the request for a Variance of the minimum lot width in an RS-1 District to permit a lot split (Section 5.030, Table 5-3) finding the hardship to be self-imposed and not in keeping with the character of the existing neighborhood; for the following property:

W/2 LT 3 LESS S5 THEREOF BLK 5, VILLA GROVE SUB, City of Tulsa, Tulsa County, State of Oklahoma

22528—Christopher Parle

Action Requested:

Special Exception to exceed the allowable driveway width in the street right-of-way and in the street setback (Section 55.090-F3). **LOCATION:** 3318 South Jamestown East (**CD 9**)

Presentation:

Christopher Parle, 3318 South Jamestown, Tulsa, OK; stated there are a number of driveways in the area that exceed the width and/or have right-of-way problems. This is a problem in the neighborhood because the structures were once businesses and are now rezoned as residential. His house and the neighbors to the north and to the south once belonged to Linda Wilco, and his house was once a daycare. The house was successfully rezoned as residential and sold in 1999. The existing driveway has been in place for an excess of 30 years, and there has never been an issue with the driveway. Mr. Parle stated that he does see how this causes any property values to fall because it is a very common issue in the area; 25% of the people on the mailing list have driveways similar to this.

Mr. Van De Wiele asked Mr. Parle how many years the existing driveway had been there. Mr. Parle stated the driveway has been there 30 years to his knowledge and according to the neighborhood, and all files he has been able to pull on the address itself.

Mr. Van De Wiele asked staff why this driveway is needing a Special Exception if it has been in existence for 30 years. Ms. Miller stated the applicant received a violation on September 6, 2018, and she does not know the inspector makes his decisions in the field.

Ms. Back asked staff if the business that had been allowed on the subject property had been allowed by Special Exception and never rezoned but stayed in the residential district. Ms. Ulmer answered affirmatively and stated it was a Board of Adjustment case in the 1980s.

Mr. Van De Wiele asked Mr. Parle when the house had been converted back to residential use. Mr. Parle stated that he has not been able to find anything about when it was converted back to residential use, but it was sold by the person who converted it to a business to another party as residential in 1999. The house has changed hands five times since 1999.

Interested Parties:

John Walker, 4221 East 40th Place, Tulsa, OK; stated he owns the property south of the subject property and has owned it about 20 years. His issue is that people enter onto the subject driveway, drive through the property and use his driveway as an exit. Over the years he has had issues with his renters; he has placed barriers on the driveway to protect his driveway. Mr. Walker stated that there is now a sump pump on the property and it drains down his driveway. The parking lot is deteriorated, and the asphalt is crumbling. The parking lot does not fit that block because the area is residential houses. It is not a business, there is lack of maintenance, and the driveway does look bad.

Mr. Van De Wiele asked Mr. Walker if his problems with people using his driveway as an exit has continued with Mr. Parle new ownership or is it a problem with prior ownership. Mr. Walker stated that it continues, and it continues to be his responsibility to block people from driving through the property.

Mr. Van De Wiele stated this is a zoning and land use Board and the members are not here to enforce good behavior between neighbors, but he understands the concern.

Rebuttal:

Christopher Parle came forward and stated he has placed a PCV pipe on the ground to catch the sump pump runoff. Mr. Parle stated that no vehicle since he has purchased the house has passed between the properties because it is basically impassable with anything but a truck because of the railroad ties and it would completely destroy the PCV pipe.

Mr. Van De Wiele asked Mr. Parle if he had any conversation with the inspector that issued the citation, or anyone else with the City. Mr. Parle stated that he never had a conversation with anyone.

Comments and Questions:

Mr. Van De Wiele stated he still questions why this is before the Board. If this were a gravel driveway and had been in existence for 30 years it would be grandfathered in. Ms. Miller stated she does not know how the inspector looks at the issue. This particular inspector may see an issue with the gravel driveway, but she does not know.

Mr. Bond stated that it is clear that it is a non-conforming structure, it is a parking lot for the house. He cannot vote for the Special Exception; he does not think the applicant needs one if he does nothing other than rent a jackhammer.

Mr. Van De Wiele stated that the Board of Adjustment matters do not set precedents in neighborhoods, and he is not inclined to do something that suggests that the Board of Adjustment wants this type of thing being built in this neighborhood or any neighborhood, but he is more inclined to find that this has been in existence for a sufficient time that it does need a Special Exception. Ms. Miller stated that she and Ms. Blank would feel more comfortable if the Board were to continue this so staff can go to Working In Neighborhoods to see how they classified this, because she does not want to place the applicant in a bad situation. Ms. Miller stated that if the Board were to continue this staff will have the case on the next agenda or the applicant can withdraw his application based upon what is found.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a **Special Exception** to exceed the allowable driveway width in the street right-of-way and in the street setback (Section 55.090-F3) to the November 13, 2018 Board of Adjustment meeting; for the following property:

N60 S180 E137.5, LT 23, ALBERT PIKE SUB, City of Tulsa, Tulsa County, State of Oklahoma

22529—Hall Estill – Chris Carter

Action Requested:

Variance of the frontage requirement in a RS-3 District (Section 5.020); **Special Exception** to exceed the allowable driveway width in the street right-of-way and in the street setback (Section 55.090-F3). **LOCATION:** West of the NW/c of South Sheridan Road East & East 67th Place South **(CD 9)**

Mr. Van De Wiele recused and left the meeting at 4:22 P.M.
Ms. Miller left the meeting at 4:22 P.M.

Presentation:

Chris Carter, 320 South Boston, Suite 200, Tulsa, OK; stated he represents Montereau, Inc. Montereau is a private gated retirement community located on the northwest corner of 71st and Sheridan. The community is comprised both of assisted living facilities as well as independent living facilities. All facilities are owned by Montereau and leased to the residents. Montereau would like to add three independent living cottages to the west Granite Avenue that will be similarly owned and operated by Montereau. They will be single story homes that are approximately 3,600 square feet, which is approximately the same size as the houses next to them. Lots are approximately 20,000 square feet and will connect by driveway to Granite Avenue. The property is surrounded by 37 acres of wooded property that is horseshoe shaped, and they will not be disturbed by the proposed construction. The surrounding neighborhoods to the north and to the west will not be connected to the development. Mr. Carter stated that he has heard from two neighbors regarding drainage and that will be addressed as part of the building permit, so there will be drainage facilities that will connect to the retention pond to the southwest. The property is zoned RS-3 so the proposed houses are permitted by right but there is a technical issue that has arisen because all of Montereau's streets are private. The ground is owned by William K. Warren Research Center and it is leased to Montereau pursuant to a long-term ground lease while the horseshoe area is not leased to Montereau because it is a green belt. The subject property before the Board today is part of the 37-acre tract to the west so it is outside of the Montereau property. The Montereau property is subject to a PUD but the three proposed houses would fall outside of the PUD, and that is where the issue is. From a land use stand point the three lots are outside of the PUD, but they are going to be subject to the same ground lease to Montereau. The Zoning Code does not allow for the expansion of the geographics of the PUD, so there was a consultation with INCOG and it was determined that the best resolution would be to do a lot split splitting the three lots off the western horseshoe tract, then Warren would lease those to Montereau. However, the lot split can only be approved if it complied with the Zoning Code, so the first rub is the street frontage requirement issue. In the RS-3 District lots are required to have at least 30 feet of public street frontage, but all the streets are private streets. What will happen, if everything goes according to plan, Warren would then grant Montereau an access easement for ingress and egress to the private streets within Montereau. So, the first thing before the Board today is a request for a Variance for the street frontage requirements from 30 feet of public street frontage down to 0 feet of public street frontage. The hardship is the unique conditions that are applicable to the property; one is the size of the property involved which is almost 90 acres, there is the unique issue of the inability to expand the geographic scope of the PUD, and the fact that there is no legal access to a public street but do have access by a private easement. The project will not alter the essential character of the neighborhood because these houses will look in conformity with other houses and cottages in the area. It will not impair the use or the development of the adjacent property; there are no plans to develop the wooded acreage around it. The second issue is more out of an abundance of caution as it deals with the driveway width requirements. The proposed driveways would be similar in aesthetics to the houses and cottages around it. So, here

the request is a Special Exception to the driveway width requirement to allow a 30-foot wide driveway on each of the three lots that are comprising the subject property. This project is in harmony with the spirit and intent of the Zoning Code because Montereau is simply expanding its services to the three proposed houses, and Montereau's existing operations are permitted by the Code and the PUD. It will not be injurious to the neighborhood or detrimental to the public welfare because the three houses will blend in with the surrounding Montereau facilities.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-1 (Back, Bond, Radney, Ross "aye"; no "nays"; Van De Wiele "abstaining"; none absent) to **APPROVE** the request for an Variance of the frontage requirement in a RS-3 District (Section 5.020); Special Exception to exceed the allowable driveway width in the street right-of-way and in the street setback (Section 55.090-F3), subject to conceptual plan 10.30. The Board has found the hardship for the Variance to be the topographical nature of the public access as well as the lack of frontage and the inability to expand the PUD. 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 SW & SE BEG NEC SW TH E1733.81 S353.83 E50 S709.20 W463.84 N196.65
NW472.49 NW433.71 W398.17 S978.81 W195.84 N258.29 W348.62 N494.53 CRV RT
130.18 NW50 NE60 SE50 CRV LF 52 NE167.84 N159.12 NW193.07 E307.78 POB
SEC 3 18 13 37.121ACS, City of Tulsa, Tulsa County, State of Oklahoma**

**Mr. Van De Wiele re-entered the meeting at 4:31 P.M.
Ms. Miller re-entered the meeting at 4:31 P.M.**

22530—William Wilkins

Action Requested:

Variance to reduce the required minimum lot area and lot area per unit (Section 5.030-A); Variance to reduce the required minimum lot width (Section 5.030-A); Variance of the open space requirement (Section 5.030-A); Variance to reduce the side and front street setback (Section 5.030-A). **LOCATION:** 1614 West Edison Street North **(CD 4)**

Mr. Bond recused and left the meeting at 4:31 P.M.

Presentation:

Williams Wilkins, 21521 West 14th Street South, Sand Springs, OK; stated this lot is actually a non-conforming lot in an RS-3 District, and it was split from the lots directly to the east some time ago. It fronts along Edison Street and Union; the street along Union is divided by a median with only a single lane of access in each direction. What he is proposing is a single-family residential house on the subject lot. There was previous action on the subject property by the previous owner that changed the front yard setback, however, he could not determine what the previous owner considered to be the front yard.

Mr. Van De Wiele asked Mr. Wilkins what the little building on the southeast corner is. Mr. Wilkins stated it is a storage building or a garage for the house to the east.

Mr. Wilkins stated that he would need an adjustment of the side building setback along Union Avenue and West Edison Street while maintaining the five-foot building line to the east with a 20-foot setback in the rear yard. The City has reviewed the plans.

Mr. Van De Wiele asked Mr. Wilkins if the area on the north side of the lot is a driveway and a parking area? Mr. Wilkins answered affirmatively. Mr. Van De Wiele asked Mr. Wilkins if he would be entering in from Union and not from Edison. Mr. Wilkins answered affirmatively.

Interested Parties:

Ray Lutz, 1712 West Easton Court, Tulsa, OK; stated he has lived in the neighborhood over 30 years. The subject lot has been before the Board of Adjustment approximately ten years ago for the same reason and that request was denied because of insufficient room to build a house. This corner is a dangerous corner and there is a rise in the road near Vancouver and Edison making it hard to see. Mr. Lutz doesn't see where a curb cut can be placed for a driveway that would be far enough away from the corner to not be an issue as well. Also, Mr. Lutz does not see where there can be sufficient parking. Mr. Lutz stated ten years ago there was a big yellow sign placed on the lot and this time there was no sign. In fact, he just became aware of this request in the last week, and a lot of the neighbors were also not aware of this action requested nor does he think the neighborhood association was aware of this. There have been investors move into the neighborhood and are flipping the houses. The plans show this house to be less than 1,600 square feet yet it shows a two-story house, so it will be a two-story almost tiny house.

Ms. Miller left the meeting at 4:39 P.M.

Mr. Van De Wiele asked Mr. Lutz if he thinks the area is supporting larger houses versus smaller houses. Mr. Lutz answered no and stated that some of the houses are being restored into their original appearances; some of the houses are close to 100 years in age. Mr. Van De Wiele stated that if the complaint is that the proposed house is too small is it being suggested that nothing be built on the lot? Mr. Lutz stated the lot does not really support that. The builder's sign plan shows the house to be 1,590 square feet and shown as a two-story house; it will not fit into the neighborhood.

Mr. Van De Wiele stated that should the Board deny all the Variance requests the neighborhood would be left with an unbuildable lot. Mr. Lutz stated that is what happened in the first case from the previous owner where the Board denied this same kind of request.

Mr. Van De Wiele asked Ms. Ulmer about the one noted previous action that was in 2005, and it was to approve a Variance of the front yard from 35 feet to 11 feet. Ms. Ulmer stated that is correct, and that is the only relevant history she found on the subject property through her research.

Ms. Miller re-entered the meeting at 4:42 P.M.

Rebuttal:

William Wilkins came forward and stated this request was posted to the Owen Park Neighborhood Facebook page at the time the application was made. Not only was a site plan provided there but also the elevations. There was some feedback, and

everyone seemed to be approving of the request. Mr. Wilkins stated that his telephone number has been out there for the last three weeks and has been contacted by no one in the neighborhood regarding this matter. The house size is a two-story and is commensurate with the lot size; the lot size is 50 x 80. Mr. Wilkins stated he is attempting to erect a house on the subject property that is not too large in scale but just right for the neighborhood; houses in the neighborhood range from 850 square feet up to 2,300 square feet. The houses directly to the east of the subject property are probably 1,200 square feet. The two-story option was taken on to create as much green space on the lot as possible, make access as easy as possible with an arch driveway coming off Union because it is a one-way street given the median, the parking area to provide enough off-street parking and still maintain a backyard and have the utility easement space to the west. Regarding some of the other comments from Mr. Lutz in relation to the previous action, that action was taken by Mr. Simmons and his attempt was to beautify the neighborhood and get rid of the empty lot. Mr. Wilkins stated that Mr. Simmons has passed and that is one of the reasons the first action was not pursued, and another reason it was not pursued was a \$15,000 investment to do a mainline sewer extension that he will be undertaking.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-1 (Back, Radney, Ross, Van De Wiele "aye"; no "nays"; Bond "abstaining"; none absent) to **APPROVE** the request for an Variance to reduce the required minimum lot area and lot area per unit (Section 5.030-A); Variance to reduce the required minimum lot width (Section 5.030-A); Variance of the open space requirement (Section 5.030-A); Variance to reduce the side and front street setback (Section 5.030-A), subject to conceptual plan 11.13 of the agenda packet and the conceptual building elevations which are to be e-mailed to staff at INCOG. The Board finds the hardship to be the size of the subject property. 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 50' OF LTS 1 2 & 3 BLK 4, PARK HILL ADDN AMD, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Bond re-entered the meeting at 4:49 P.M.

22531—Gant Hinkle

Action Requested:

Variance of the minimum lot width to allow for a lot split (Section 5.030-A).

LOCATION: 4687 South Columbia Avenue East (CD 9)

Ms. Ross recused and left the meeting at 4:50 P.M.

Presentation:

Nathan Cross, 2 West 2nd Street, Suite 700, Tulsa, OK; stated his client is seeking a Variance for the lot width in an RS-1 District; from 100'-0" to 77'-6". This would create two still extraordinarily large lots even after it is split. The property is not platted, and the house was built in 1950 which indicates the RS-1 designation was laid over the neighborhood. The east side of the property has an elevation drop that makes it difficult to develop. His client does not see any ability to repurpose the existing house and would like to construct two new houses. There is also a significant wooded area on the east side of the property. The plan is to create two lots, build two houses on them that will in all ways conform to RS-1 zoning but for the lot frontage. All the setbacks and bulk and area requirements will be met. The intent is to keep as many of the trees as possible because it is seen as a benefit to the existing neighborhood.

Mr. Van De Wiele asked Mr. Cross to state the hardship for this request. Mr. Cross stated that the hardship is that the property is an extraordinarily large lot that is not necessarily keeping with current development standards. The house that exists on the property does fit with the neighborhood; the house is old and is in poor repair. Mr. Cross stated that his client believes the house not salvageable.

Mr. Cross stated that at the corner of 49th and Columbia Place the Board of Adjustment approved a lot split recently. The subject property is dragging down the value of the houses of the area because of the use of the property.

Interested Parties:

Larry Dunham, 4688 South Columbia Avenue, Tulsa, OK; stated he lives directly across the street from the subject property. The house is disrepair and was built in the 1950s. The owner of the property has been deceased for many years and the people the live in the house now are family members and the house has not been taken care of at all. A couple of years ago there was suicide at the house on the subject property, which could be psychologically impacting the property which could be detrimental to a potential buyer. Many of the lots are an acre or bigger and Mr. Dunham stated his lot is 9/10 of an acre. Properties in the neighborhood are being down sized to 1/3 of an acre or 1/2 an acre. At the bend of Columbia there was a 2-1/4-acre lot that has been split into four lots. Mr. Dunham stated that the issue isn't that it is being split, but is concern is where would the curb cuts would be placed. At the intersection of 49th and Columbia Place that lot was divided a couple of years ago and those lots ended up being 6/10 of an acre; one lot access from 49th Street while the other accesses from Columbia Place. The subject property is the second lot in from the corner, both curb cuts would have to be on Columbia and he is afraid that would give the appearance of multi-family.

Rebuttal:

Nathan Cross came forward and stated there are about 23 houses in the neighborhood that are less than 100 feet in width, but the concept that this would not be in keeping with the neighborhood if it were 77'-6" wide is not accurate necessarily. To the point of the curb cuts, he would be happy to have that discussion with the neighbors.

Mr. Cross stated that this lot is extraordinarily large and would be creating two large RE lots of 23,000 square feet each. Thinking about the building and development patterns everything that is being done, generally speaking, with regard to new residential developments is for residential is smaller. This large lot is not the way things are any more. The neighborhood is very eclectic. The subject property is dragging down property values and the house that exists is probably as big as can be built because of the slope toward the back of the lot. There is a limited building envelope that makes it difficult to build a house that would match with the neighborhood. It would not be inconsistent with the development patterns, both in the neighborhood and in the City of Tulsa.

Comments and Questions:

Mr. Van De Wiele stated that to him this is a self-imposed or financial hardship.

Ms. Back stated the topography brings in a new twist. If the lot were divided from the east to the west and had two narrow lots the possible argument would be that a person could not build on the back of the lot due to the topography, and the lot would become land locked if it were divided north to south.

Board Action:

On **MOTION** of **BOND**, the Board voted 2-2-1 (Bond, Radney "aye"; Back, Van De Wiele "nays"; Ross "abstaining"; none absent) to **APPROVE** the request for a Variance of the minimum lot width to allow for a lot split (Section 5.030-A). The Board has found

the hardship to be the topography limiting the development of the lot and the size of the lot in comparison to the adjacent houses. 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 658.4 E & 1144 N SW COR SE SW TH W 299.2 N 155 E 299.2 S 155 TO BEG SEC 29-19-13, City of Tulsa, Tulsa County, State of Oklahoma

MOTION FAILED

On **MOTION** of **VAN DE WIELE**, the Board voted 2-2-1 (Back, Van De Wiele "aye"; Bond, Radney "nays"; Ross "abstaining"; none absent) to **DENY** the request for a Variance of the minimum lot width to allow for a lot split (Section 5.030-A) for lack of hardship; for the following property:

BEG 658.4 E & 1144 N SW COR SE SW TH W 299.2 N 155 E 299.2 S 155 TO BEG SEC 29-19-13, City of Tulsa, Tulsa County, State of Oklahoma

MOTION FAILED

Ms. Ross re-entered the meeting at 5:18 P.M.
Ms. Miller left the meeting at 5:18 P.M.

22534—Scott Bangs

Action Requested:

Special Exception to allow for a bar within 150 feet of an R District (Section 15.020-G); Verification of the 300-foot spacing requirement for a bar from public parks, schools, other bars, religious assemblies, and sexually oriented business establishments, and the public entrance doors 50 feet from an R-zoned lot (Section 40.050). **LOCATION:** 4302 East Pine Street North **(CD 3)**

Presentation:

Scott Bangs, 239 East Young Street, Tulsa, OK; no formal presentation was given but the applicant was available for any questions from the Board.

Mr. Van De Wiele stated the Board is in receipt of the spacing verification from the applicant on page 13.8 of the agenda packet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing for the proposed bar subject to the action of the Board being void should another conflicting use be established prior to this bar and to **APPROVE** the request for a Special Exception to allow for a bar within 150 feet of an R District (Section 15.020-G), subject to conceptual plan 13.8 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:

**PRT BLK 1 BEG SWC LT 8 BLK 1 TH N180 W139.54 S180 E139.54 POB & E25 VAC
ST ADJ ON W, C A REESE, City of Tulsa, Tulsa County, State of Oklahoma**

OTHER BUSINESS

Review of the 2019 proposed meeting dates for the Board of Adjustment.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, 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 26th date.

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NEW BUSINESS

None.

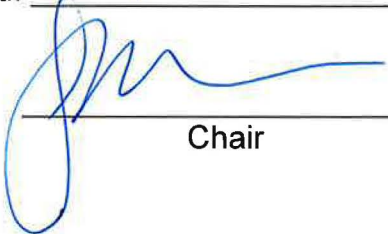
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BOARD MEMBER COMMENTS

None.

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There being no further business, the meeting adjourned at 5:23 p.m.

Date approved: 11/13/18


Chair