

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1152
Tuesday, December 8, 2015, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Henke, Chair Flanagan Snyder White, Vice Chair	Van De Wiele	Miller Moye Foster Sparger	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, December 3, 2015, at 10:07 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Henke 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 **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Snyder, VanDeWiele, White "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the **Minutes** of the November 10, 2015 Board of Adjustment meeting (No. 1151).

Mr. Henke explained to the applicants and interested parties that there were only four board members present at this meeting, and if an applicant or an interested party would like to postpone his or her hearing until the next meeting he or she could do so. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from three board members to constitute a majority and if two board members voted no today the application would be denied. Mr. Henke also

explained that Mr. White would be recusing from agenda Items #5 and #7 and Ms Snyder would be recusing on agenda Items #3, #4, and #17 today leaving only three Board members to consider and vote on the case. Mr. Henke asked the applicants and the interested parties if they understood and asked the applicants or interested parties what they would like to do. Several stood for a continuance request.

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NEW APPLICATIONS

22002—Eller & Detrich – Andrew Shank

Action Requested:

Variance of the required setback from south Sheridan Road to permit vacuum structures (Section 703, Table 2). **LOCATION:** 2181 South Sheridan Road East (CD 5)

Presentation:

The applicant has requested a continuance to the January 12, 2015 Board of Adjustment meeting.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Snyder, White “aye”; no “nays”; no “abstentions”; Van De Wiele absent) to **CONTINUE** the request for a Variance of the required setback from south Sheridan Road to permit vacuum structures (Section 703, Table 2) to the Board of Adjustment meeting on January 12, 2016; for the following property:

LTS 1 2 & W30.72 LT 3 BLK 1 & LTS 1 2 & W30.46 LT 3 BLK 2 & 60 OF VAC 22ND ST ADJ TO BLKS 1 & 2, COZY ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21998—Lamar Outdoor Advertising – Lorinda Elizando

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2); Variance of the allowed display surface area for signage on a lot in the

IL District (Section 1221.E.3). **LOCATION:** 15091 East Admiral Place North (CD 6)

Presentation:

The applicant has requested a continuance to the January 12, 2015 Board of Adjustment meeting.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Snyder, White "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **CONTINUE** the request for a **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 1221.F.2); **Variance** of the allowed display surface area for signage on a lot in the IL District (Section 1221.E.3) to the Board of Adjustment meeting on January 12, 2016; for the following property:

E194 W344 E832.22 S OF 66 BYPASS & LESS S40 & N250 E22 W150 E832.22 LT 3 SEC 3 19 14, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22005—Nathan Cross

Action Requested:

Variance to reduce the permitted lot width in the RS-2 District to 65 feet on Tract A and B, and to 69 feet on Tract C (Section 403) to permit a lot split. **LOCATION:** 2232 & 2240 South Evanston Avenue East (CD 4)

Ms. Snyder recused at 1:11 P.M.

Presentation:

Nathan Cross, 502 West 6th Street, Tulsa, OK; stated that he is requesting a continuance to have the case heard by a full Board, especially since Ms. Snyder has stated that she needs to recuse. Mr. Cross stated that there is a possibility that Mr. Flanagan may need to recuse also.

Interested Parties:

Judy Royster, 2307 South Evanston Avenue, Tulsa, OK; stated the neighbors have prepared to come before the Board today and oppose this request. The neighbors

received notice of this request over the Thanksgiving weekend and have worked very hard to prepare for today and the neighbors request the Board hear this case today. It is going to be difficult for some of the neighbors to attend the next Board of Adjustment meeting.

Comments and Questions:

Mr. Flanagan asked Mr. Cross what conflict he was referring to. Mr. Cross stated that his client, Mr. Jeremy Lemons, had informed him that he and Mr. Flanagan know one another very well. Mr. Flanagan stated that he had gone to school with Mr. Lemons and deferred to Mr. Swiney.

Mr. Swiney stated that if Mr. Flanagan did not feel as if his relationship with the applicant would influence his judgment he does not see a need for Mr. Flanagan's recusal. Mr. Flanagan stated that he will not be recusing.

Mr. Henke stated that his recommendation would be not to break up the case by hearing a portion today and a portion at the next meeting. It is more efficient to deal with the case at one time if at all possible.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 3-0-1 (Henke, Flanagan, White "aye"; no "nays"; Snyder "abstaining"; Van De Wiele absent) to **CONTINUE** the request for a **Variance** to reduce the permitted lot width in the RS-2 District to 65 feet on Tract A and B, and to 69 feet on Tract C (Section 403) to permit a lot split to the Board of Adjustment meeting on January 12, 2016; for the following property:

LT 8 BLK 3; LT 9 BLK 3, BRYN-MAWR, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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UNFINISHED BUSINESS

21981—Leah Krautter

Action Requested:

Variance to allow a two-story detached accessory building exceeding 18 feet in height and exceeding 10 feet at the top of the top plate (Section 210.B.5).

LOCATION: 1315 East 19th Street South **(CD 4)**

Presentation:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated he would request a continuance due to there not being a full Board in attendance today.

Interested Parties:

Lynn Jones, 1320 East 19th Street, Tulsa, OK; stated that she is opposed to the request for a continuance because this is her second time before the Board for this case.

Tom Baker, 1323 East 19th Street, Tulsa, OK; stated he is opposed to the continuance because he believes this is the second continuance requested by the applicant, and would like to have an explanation for request for the continuance.

Ms. Moye stated that in the original case the notice was incorrect and staff requested to continue the case in order to correct the notice.

Comments and Questions:

Mr. Henke stated that when there is not a full Board an applicant is given the opportunity to request a continuance, and to his knowledge the Board always tends to grant the request. If the case is heard today the protestants could have their testimony on the record, but the problem with that is if it is not decided today Mr. Van De Wiele will need to read the minutes or watch the meeting on TGOV. In trying to be fair, Mr. Henke stated that he is inclined to continue the case, though he is prepared to hear it today but in fairness to the applicant he thinks it would be wise to continue the case.

Mr. Neal came forward stated that in fairness to his client this is the first continuance requested by the applicant and the other continuance was a technical glitch. He was prepared to present at the first hearing and he is concerned about the issue of it being an all or nothing vote. Mr. Neal stated that he serves on the Preservation Commission and understands the dynamics and would encourage the Board to give his client as many members on the Board as possible.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 3-0-1 (Henke, Flanagan, White "aye"; no "nays"; Snyder "abstaining"; Van De Wiele absent) to **CONTINUE** the request for a **Variance** to allow a two-story detached accessory building exceeding 18 feet in height and exceeding 10 feet at the top of the top plate (Section 210.B.5) to the Board of Adjustment meeting on January 12, 2016; for the following property:

W90 E151 LT 6 BLK 25,PARK PLACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Ms. Snyder re-entered the meeting at 1:22 P.M.

NEW APPLICATIONS

21995—Carl & Leslie Barnes

Action Requested:

Variance of the minimum lot width requirement for Tract 1 and Tract 2; Variance of the minimum lot area and land area per dwelling unit requirement for Tract 2 to permit a lot-split (Section 403, Table 3). **LOCATION:** 26 East 25th Street South (CD 4)

Mr. White recused at 1:22 P.M.

Presentation:

Carl Barnes, 26 East 25th Street, Tulsa, OK; stated that he would like to request a continuance because he believes Mr. White will be recusing.

Interested Parties:

Roger Goodhead, 12 East 25th Street, Tulsa, OK; stated he lives two houses west of the subject property. Mr. Goodhead stated that he was here four months ago on the same issue and it appears that all Mr. Barnes has done is flip-flopped what he wanted to do the first time.

Mr. Henke stated that the Board did not want to go into the logistics of the case at this time and asked Mr. Goodhead if he was opposed to the request for continuance. Mr. Goodhead stated there other property owners in attendance today and everyone is ready to go today.

Adam Dolinsky, 20 East 25th Street, Tulsa, OK; stated he lives next door to the subject property. Mr. Dolinsky stated that he did not receive the letter that the applicant had referred to but he went to INCOG yesterday and received a copy of all of the applicant's information and nothing has changed. He has tried to rally the troops and get all the information prepared. This issue has been hanging above the neighborhood for the last six months, the neighborhood is here, and have taken time off work and everyone would like to have the case heard today.

Comments and Questions:

Mr. Henke stated that he understands where Mr. Goodhead and the neighbors are coming from but in the interest of fairness he will support a continuance. He encourages the neighbors that cannot attend the meeting on January 12, 2016 to send in an e-mail or a letter.

Mr. Flanagan and Ms. Snyder agreed with Mr. Henke.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 3-0-1 (Henke, Flanagan, Snyder "aye"; no "nays"; White "abstaining"; Van De Wiele absent) to **CONTINUE** the request for a Variance of the minimum lot width requirement for Tract 1 and Tract 2; Variance of the minimum lot area and land area per dwelling unit requirement for Tract 2 to permit a lot-split (Section 403, Table 3) to the Board of Adjustment meeting on January 12, 2016; for the following property:

W 25 LT 3 & E 37 1/2 LT 4 BLK 12; W25 OF LT 2 & E25 OF LT 3 BLK 12, RIVERSIDE DRIVE ADDN THIRD AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. White re-entered the meeting at 1:29 P.M.

UNFINISHED BUSINESS

21966—APAC-Central – Jeff Sorrells

Action Requested:

Special Exception to permit a quarry in the IM and AG Districts (Section 301 & Section 901). **LOCATION:** South of the SW/c and SE/c of East 36th Street North & North 129th East Avenue **(CD 3)**

Mr. Henke announced that with the number of interested parties and with the amount of information the Board has received the Board will plan to limit the case to an hour. The Board will hear from Mr. Weger, then interested parties in favor of approval, then the parties opposed, and then Mr. Weger's rebuttal.

Presentation:

James Weger, 15 East 5th Street, Suite #3800, Tulsa, OK; stated he is here to request the expansion of an existing quarry east of Highway 169 and South of 36th Street North. There will be three people speaking on behalf of the applicant. Mr. Weger had maps placed on the overhead projector for presentation showing the existing quarry, the truck traffic flow, and the expansion area. This is an existing quarry and the applicant is not asking for a new quarry or something that does not already exist. There are several businesses around the quarry and on November 10th Mr. Weger stated that he attended

a blast at the Oxley residence with the polo ponies. When the blast went off it lasted for about a second and it did not disturb the horses; they merely looked up and went back to eating grass. He found that particularly relevant given the close proximity of about 1,200 feet from the actual blast site to the other properties concerned and interested parties in attendance today. Limestone is a necessary ingredient for any highway or major construction. APAC has been in the subject location since the 1940s and their largest customers are ODOT, the City of Tulsa, Oklahoma Turnpike Authority and Tulsa County. The biggest cost for providing aggregate for a highway or roads is the cost of transporting the rock. Tulsa County and the public are quite lucky to have this reserve of limestone this close to the City. For the most part, the area around the quarry is undeveloped. Mr. Weger stated that on all three maps that have been placed on the overhead projector show the businesses near the quarry which some have submitted letters of objection to this request. The blue line on the maps is the area that is planned to be quarried and the green line represents the property line of what APAC owns. APAC has voluntarily built in setbacks away from people to try to build in distances between the proposed quarry activities and where they are seeking the Special Exception. Mr. Weger stated the objections to the subject project are not coming from anyone that is north of the proposed area, but are coming from U. S. Cellular to the west; Midtown Motors which is a house on agricultural zoned property and about 1,000 feet away from the proposed mining activity; and there are several from the south objecting. The truck traffic currently use 36th Street North to travel to and from the site and that will not change. Mr. Weger stated that from ground level a person cannot see much of the quarry because it is in a hole. The quarry on the north side of 36th Street North is approximately 100 feet deep and the quarry on the south side of 36th Street North is approximately 75 feet below ground level. The crusher will not be seen because it is down in the quarry. Most of the objections that have been raised are dust, vibrations, truck traffic, and the specter of airlines which is not relevant to this proceeding. Nothing in the FAA has anything to do with the proposed application request or will it interfere in any way the operation of Tulsa International Airport (TIA). Water has been mentioned and that will be addressed, but DEQ has told APAC that water coming from the quarry is cleaner than the water in the adjacent creek. APAC is monitored extensively by both federal and state agencies. There is nothing toxic manufactured at the quarry. There is nothing toxic admitted from the quarry. The quarry has no negative effect whatsoever on the water or water supplies and evidence has been submitted in the materials showing just that. The operation of the quarry is no nosier than the ambient noise of being on the west side of the race track. The sound decibel level is the same standing next to the highway as it is for the quarry. It is not any nosier than the surrounding area. APAC is required by the Oklahoma Department of Mines to use dust suppression. There is some dust involved but Mr. Weger does not think it is enough to make anyone a half mile away or a quarter mile away notice it. APAC is a nationwide company that owns hundreds of mines and takes pride in abiding by the regulations that are placed on them by the local entities. APAC has a fairly clean track record. Mr. Weger stated that he had read that APAC had damaged foundations and if that has occurred APAC has never been notified. APAC has no violations for blasting from the Oklahoma Department of Mines. APAC has never been sued or asked to repair any foundations. The truck traffic has been listed as a concern and that

is not going to affect any of the people that are south of the project. The truck traffic that exists now will continue to exist, and it is not proposed to move down Apache. Mr. Weger stated that Mr. Wheeler will discuss the vibrations. Mr. Weger stated that when he attended the blast on November 10th he was mildly disappointed because there was a low boom and not much else. The issue before the Board today is whether the existing quarry operation should be allowed to expand on the land which it owns. The quarry was there long before anyone came along. The quarry has been there and has been a good neighbor. There is no evidence of violations of any state or federal regulations, and or any damage to anyone's property ever. Mr. Weger stated that he believes it is legitimate to be concerned about what is going in next door but with the setbacks and the scientific evidence that will be presented that a lot of the concerns are not legitimate concerns. Mr. Weger stated that he knows there are people here that will speak against and people that will speak for. Some of these people have invested millions of dollars in their property, which is good for the City.

Interested Parties:

Kris McClanahan, 24115 Meadow View Court, Claremore, OK; stated he is the General Manager in Oklahoma for APAC-Central. APAC is owned by Oldcastle Materials and nationwide have over 400 operations and quarries. APAC is America's largest aggregate and asphalt producer. Most of the materials are supplied to municipalities, ODOT, Oklahoma Turnpike Authority, commercial and residential construction and is used in ready mix concrete. Moving the aggregates outside the City will be a tremendous cost. It is estimated that 60% of the cost of materials is in transportation. APAC-Central, year after year, between the asphalt and the aggregates has supplied over \$30 million to this area out of the two locations. With the size of the company and their core values, the employees safety, environmental stewardship, and community involvement Oldcastle Materials is a very responsible operator and would like to continue to be a part of this community. It has been said that this proposal will be detrimental to property values, but there have been several studies that say that land actually goes up in value around quarries. The blasting is highly regulated and the blasting is regulated by the Oklahoma Department of Mines and the Department of Environmental Quality. All the blasts are performed by third parties and all the monitoring is performed by another third party. Mr. McClanahan stated that one of the issues is noise. There have been several 8-hour noise studies to bring the facts to the Board. There were two studies performed inside the pit operations and those levels were at or less than shown on Map 3. There was a study performed at the APAC training building and that was actually the noisiest area, and there are no mining activities in that area. The noise study was performed along the fence line and it was at or above the levels inside the pit. Mr. McClanahan does not believe any additional noise will be generated. The primary crusher will be 40 to 50 feet below grade which will eliminate the noise issue. All the mining activities will be below grade which will also help mitigate the noise levels. The primary crusher is a source of dust and it has a dust suppression system that has to be operational for the crusher to work. Mr. McClanahan stated that the blasting frequency is about one time a week on average but could be up to twice a week with the duration of less than a second. There is a 400 foot setback on the south side property and a 600 foot setback on the east side property. The point of

sale will not be moved because all the infrastructure exist there. The material will be conveyed to the existing processing plant and the only processing equipment that will be moved is the primary crusher.

Mr. White asked Mr. McClanahan at what depth below the soil is the limestone being found. Mr. McClanahan stated the soil is not very deep and is actually hard to come by at the site. The overall depth of the pit is 75 feet. Mr. White asked if it was developable below that. Mr. McClanahan stated there is material below that depth.

Ms. Snyder asked Mr. McClanahan if the number of times for blasting will increase. Mr. McClanahan stated that it is not expected to increase.

Ms. Snyder asked Mr. McClanahan if there have been citations issued for environmental issues. Mr. McClanahan stated that he is not aware of any environmental violations.

Mr. Henke asked if there were any noise or vibration citations. Mr. McClanahan stated that there have been complaints but he does not think there have been any violations.

Ms. Moyer stated that information regarding mine citations and orders from a mine retrieval system has been submitted by one of the interested parties so the Board may review the information.

Mr. Weger came forward and stated that the data retrieval system would be MSHA which is the equivalent to OSHA. MSHA governs the mines so there are citations there but he does believe there are any for dust or noise. They monitor the dust and noise under the health monitoring program of all the employees. The citations could be from anything from a guard left off or a blinker not working.

Randy Wheeler, President, White Industrial Seismology, Inc., P. O. Box 1256, (1206 South Schifferdecker Avenue) Joplin, MO; stated that his on the site for the test blast on the 10th and there have been reports submitted for the Board. The company provides vibration monitoring services for all kinds of manmade of vibrations, not just for blasting. There are four permanent monitoring stations at the quarry. The report will show general information regarding the two blasts; how many holes, the diameter of the holes, the average depth, and the maximum explosive load detonated in the given point of time, etc. The monitoring stations are tagged as Station #1 Waste Management; Station #2 Oxley; Station #3 South of 46th; and Station #4 in Owasso. There are different seismographs in different directions and different distances. Mr. Wheeler had seismographic reports placed on the overhead projector and explained them.

Mr. White asked Mr. Wheeler if these graphs could be equated to the injection well scale or the richter scale. Mr. Wheeler stated that it cannot. The richter scale is a scale that specifically defines earthquakes. It is not based on true ground motion. It is based on having equipment a certain distance from the epicenter and that is how the richter values are based. The measurements at the quarry are based on true ground motion.

A richter four is ten times more energy than a richter three, so it is a measure of the energy contained in the vibration.

Mr. Weger came forward and had Map 1 placed on the overhead projector and explained how unaffected the area is. There is a City of Tulsa main waterline, which is buried underground, in the northern vicinity and it has never been bothered.

Roger Eldredge, Attorney-at-Law, Ladner & Eldredge, 320 South Boston, Suite #1130, Tulsa, OK; stated he represents GoFit and they have a warehouse in the area within a quarter mile of the proposed blast area. They distribute exercise and athletic equipment throughout the United States. GoFit has been in that warehouse since 2009. Currently people in the area can feel the vibrations and hear the blasts and have issues with dust. The Comprehensive Plan contemplates that this area is an employment area and an area of growth. An employment area typically contains things like offices, warehouses, light manufacturing and high tech uses. The proposed extension of the quarry into this area is nothing like the uses contemplated by the Tulsa Comprehensive Plan. It is at the opposite end of the spectrum. A highly regulated business, like a rock quarry, that close to a substantial commercial development. It will drive down property values. It will negatively impact the surrounding area with noise and vibration and dust and truck traffic. A representation was made that a person cannot see the quarry. That is not accurate. When a person drives down the road toward the quarry you cannot see it when you are right next to it but as you driving and the topography changes a person can see into the quarry. The 75 foot pit can be seen. The collection of rain water can be seen in the quarry. It is a horrible looking pit and it will not be conducive to further development of property in this area. Right now there is a substantial development going on near the planned expansion. This will crush that development. The Board has already heard from people via letters that there are plans to build in the area but they will not build if the application is approved. Mr. Eldredge stated that his client just received a permit to build another warehouse on the GoFit property and it will not build if the application is approved. The applicant has said that there are up to two blasts a week and there will be more if it is profitable. There will be blasts that will be felt, vibrations, there will be dust from the truck traffic, there will be increased noise, and there will be a huge ugly gaping hole next to the warehouses. The quarry simply does not have the right to expand into the employment area. Mr. Eldredge stated that given the Board's standard the application should be denied because it is not in harmony with the spirit and intent of the code as reflected by the Comprehensive Plan. Allowing the rock quarry to go in would also be injurious to the neighborhood and detrimental to the public welfare and will drive the property values down.

Casey Chambers, 11920 East Apache, Tulsa, OK; stated he represents John Zink Company and they have been there for more than 25 years. They are in opposition to the request to permit a quarry. The company has more than 700 employees who work at the site each day and have nearly \$100 million dollars invested in the site. On the site there are office buildings; research and development facilities where large scale industrial combustion testing; and manufacturing complex with machines that are very sensitive to vibration because there are very precise instruments. John Zink Company

used to be located at 41st Street and South Peoria which was extreme south Tulsa in 1941. As zoning was changed and Tulsa grew around the plant the company decided they needed to find another location. In the late 1980s they spent significant time and resources seeking out the property the company sits on today. John Zink purchased 400 acres that sits between the Tulsa International Raceway and the Burlington Northern rail line between Garnett and 129th East Avenue. This property, which was developed by John Zink, has become home to a number of other people. At the time of purchase of the facility John Zink did an extensive study on the zoning requirements in the area. Agricultural and industrial was very compatible with the John Zink business and what they are trying to accomplish. The quarry was in existence long before John Zink and they have been good neighbors over the years. The vibration that has been mentioned has been consistent at a couple of times a week and does last for about two seconds. Mr. Chambers stated that he does not have a scale to understand the type of blasting that was performed for the November 10th testing and how it relates to what actually takes place on a routine basis but he can assure the Board that all blasts are not the same. Some are very significant and some are very noticeable. Mr. Chambers stated that his client does have concerns about the vibrations. The John Zink office building is a four-story all glass structure that sits just south of Apache and it houses more than 400 people. Mr. Chambers stated that his office is on the third floor of the building and he can assure the Board that when a blast occurs it is noticeable. When the company has visitors they express concerns when a blast occurs and they think they have experienced an earthquake. This is a significant expansion to the south that is being proposed. Today blasting takes place more than two miles from the John Zink office facility and the reality is that this expansion would allow them to blast within a half mile of the John Zink property. This gives the company a number of concerns on several issues. The John Zink facility does have some foundation challenges but he cannot tell you why or what it is, whether it was natural settling or the result of blasting activity. The company is concerned that if the blasting gets closer and more intense it may become a further challenge. The longevity and the accuracy of the parts that are supplied to the John Zink customers, it does not take a lot vibration for the CNC parts to have a head be off and then parts have to be scrapped which is a nuisance. The safety and structural integrity of the test facilities which includes piping, vessels, instrumentation that is used to conduct and convey large volumes of gas used in industrial testing in the complex for product development. John Zink Company does want to actively support all Tulsa businesses and have had a great working relationship with APAC over the years but the reality is that the expansion moving closer to existing developed property and facilities is not a good fit for the area.

Mr. Henke asked Mr. Chambers if the company has experienced issues with the precise instruments they use, or is that it is an anticipation of problems. Mr. Chambers stated that it is a little of both. The machine centers have had rejected parts as a result of the vibration. The concern is that if the quarry moves closer how much how much more significant will the vibration be and how much of an impact will it have on the company's normal production.

Patrick Coates, 2808 East 27th Place, Tulsa, OK; stated he is a commercial realtor in Tulsa and he is in opposition to the request. Mr. Coates would like to know how Mr. Weger knows that the City of Tulsa waterline is not damaged, because there is no way of knowing unless the line was dug up and inspected. Mr. Coates stated that the studies were paid for by APAC and not paid for by an independent board that he is aware of so he believes the studies can be slanted. The subject property has not been owned by APAC for 60 years but it has been owned by APAC for three or four years. Mr. Coates stated that his family and financial partners own three warehouses in the area. Airpark Distribution Center consist three 100,000 square foot buildings and they are substantial pieces of real estate on an approximate 25 acre property. What APAC is proposing is coming within two blocks of these buildings. His tenants already feel the vibrations and hear the blasts. It is disruptive. He has already had foundation issues that have been repaired. He does not know if the foundation issues were a result of the mining operation or if it settling or construction but several thousand dollars has been spent on repairs. Mr. Coates stated that he feels the tenants are being infringed upon. He has a right to not have his property damaged. This could create a problem for him to attract future tenants that are in the high tech industry if there are vibrations and blasting. APAC's application is not a use by right and not a permitted use under IM zoning. There would be a lot more development in the area if there were not concerns over APAC's application and their blasting. All the development that has occurred between Pine and 46th Street North in the last ten years has been substantial; over \$100 million dollars in development in ten years. What is best for Tulsa is higher paying jobs that are created by buildings and by development of property. To allow this application to go forward will kill that. It will create problems and kill development.

Matt Christensen, 2 West 2nd Street, Suite #700, Tulsa, OK; stated he represents U. S. Cellular and they own the property located to the immediately northwest of the quarry. U. S. Cellular houses a switch and a cell tower on their site, and he believes personnel do work in the building at times because the switch must be maintained. The switch is responsible for the entire area which reaches into Kansas and Missouri. The equipment is very sensitive and is susceptible to vibration and dust. If that site goes down U. S. Cellular will lose coverage over the entire area which also means no 911 calls. Mr. Christensen believes the application is premature. By the applicant's own application they do not intend to use the Special Exception until 2020 and the Special Exception will expire in three years. The applicant has received Special Exceptions in the past but in 1977, Case #BOA-9508, there was a Special Exception issued and it appears that APAC had not developed the area as of 1981, which makes that application also untimely. APAC also had a Special Exception issued in 2005 which was not utilized making it also untimely. This raises questions to the applicant's proposal to not use the Special Exception until 2020 at the earliest. The application is incomplete as the applicant provided no site plan to see exactly what is to be done on the property. There were no development standards given so people do not understand what the methods of operation are going to be. An important concern of all parties in the area is what weight of explosives are going to be used and the remediation of the properties. Mr. Christensen stated that APAC stated the distance to the Oxley property is approximately 1,400 feet and that the blast did not disturb the horses. In exhibits 10

and 11 both show maps of complaints made to the Department of Mines in 2012. The distance from the property to the north and the complainant NC-12015 is over 10,000 feet. In this instance, on page 2 of the report from the Department of Mines states that "due to excessive number of civic complaints against APAC's blasting the Department of Mines is now requiring that APAC obtain a quality video for each future shot and it be placed in the file record". It was determined that the shot referred to was 27,822 pounds of explosive. That will help determine the set of limits because that will have an effect on his client and the other parties in the area. Mr. Christensen stated that Exhibit 12 shows the dust raised by the APAC operation, and it is significant. U. S. Cellular opposes the Special Exception request.

Paul Murphy, 12229 South Ash, Jenks, OK; stated he is the Chief Medical Officer for Precision Fitting and Gauge. The company has been on their property since 1976 and it is a \$50 million distribution company. The company purchased land about 18 months ago at 27th Street North and Garnett which is adjacent to the Airpark Center. Mr. Murphy stated that he echoes many of the comments made by Mr. Patrick Coates. It is the company's intent to build a building for their 40th anniversary at the end of 2016. The company will employ approximately 62 people and the building will include a retail store which will generate sales tax for the City of Tulsa. If the Special Exception is allowed the company will rethink their position and more than likely move to Wagoner County where the company has an option. The company performs calibration and instrumentation for oil companies on their instruments that have very sensitive issues, and the vibration would affect the company's calibration of those instruments. The company does not want to build a new building only to find out that it worth less than it cost to build. Mr. Murphy stated that the company is in opposition to the request and would encourage the development of the industrial area so that it is in keeping with the Comprehensive Plan.

Kamran Momeni, 9175 South Yale, Suite #300, Tulsa, OK; stated he represents United Warehouse. United Warehouse is approximately two blocks from the subject site and has two buildings. United Warehouse will sustain the same injuries as everyone else if the rock quarry expands. The Special Exception will establish public policy. It is his understanding to permit a quarry in the Industrial Moderate and Agricultural District, the zoning code Title 42 states that "its purpose is to promote health, safety and general welfare and to conserve the value of the buildings". What APAC proposes to do is contrary to the statute. Mr. Momeni had a video of the United Warehouse area played on the overhead projector, and the video is clipped from the United Warehouse website. United Warehouse is the type of company that was coveted by the City of Tulsa. They are a company based in Wichita with facilities across the United States and have been in Tulsa over 20 years. Prior to coming to Tulsa there was extensive research done to decide on the company's current location. United Warehouse has spent approximately \$26 million on their current facilities. What all the interested parties have in common is that they are here; they are permanent and want to continue to stay here. But a rock quarry is temporary because they can only mine for so many years. As counsel for United Warehouse, they have expressed the mining operations will impact whether or not they will continue the Tulsa operation or find alternative facility.

Ms. Miller left the meeting at 2:43 P.M.

United Warehouse is a logistics solution company, and that means they have temperature controlled storage because United does ship certain foods. United Warehouse has specific filters to control the dust because of industry standards. What is a concern of United's is whether the dust contaminates the client's products and whether they will be sued. United is a leader in logistics and that is because of specifically tailored technology. Mr. Momeni stated that if the Special Exception is granted it will be opening up Pandora's Box, where it will stop incoming business and what already exists will exit.

Ms. Miller re-entered the meeting at 2:47 P.M.

Nathan Wood, 11109 East 75th Place, Tulsa, OK; stated that he is a long term resident of Tulsa and represents Warren Power which employs 135 currently. The company purchased their property about eight years ago knowing exactly what is going on the area and strongly assuming what it going to go on in the future. The company has high precision measuring equipment and dust control concerns. There have been no issues or concerns over what has happened at APAC. As a citizen he would hate to see the Board impede growth and industry.

Chad Allen, 11815 East Apache, Tulsa, OK; stated he represents Turpen and Associates which across the street from John Zink. The company has been in their location since 2005. He agrees with the other business owners in the area and they did not get together to discuss the differences or similarities of the companies. The owner of the company did not purchase his piece of property knowing there would be a rock quarry going in. Mr. Allen asked why APAC had not filed the permit when they purchased the proposed site instead of waiting until all the businesses have built. Mr. Allen stated that Turpen and Associates owns a 41,000 square foot building on 4 ½ acres and thinking about expanding. As a resident of Owasso he travels Highway 169 everyday and asks if this is something the City wants residents going by every day. Mr. Allen asked if the APAC employees wore masks in the rock quarry and if it is breathable dust, especially for children.

Rebuttal:

Mr. Weger came forward and stated the Board has heard and seen a lot of what ifs and what might be but not what has happened. Mr. Weger had Map 2 placed on the overhead projector to show that Warren Cat is the closest business on the south side of 36th Street North. The quarry existed long before any of the buildings in the area were constructed. The quarry has not stunted or stopped development because the buildings came in after the quarry was there. This quarry and the proposed expansion will not limit or stunt development. The public interest here is for aggregate that is necessary for the state, federal and local governments to build highways. This stuff does not

happen everywhere, you have to go where the lime stone is located. The quarry existed before the Comprehensive Plan. APAC is not asking for a new quarry site, they are asking to expand one that exists. There is a solid history of showing that APAC is a good neighbor. There have been "what if" conversations and the "what ifs" are governed by the Department of Mines. There are no violations for blasting and there is not one shred of evidence from anyone here today, or in the history because APAC has never been sued nor had an insurance claim, that APAC has damaged anybody's property. Mr. Wheeler explained that a blast below the Oklahoma Department of Mines 1.0 limit has virtually no chance of damaging anybody's property. It is not a legitimate concern. Mr. Weger referred to Map 2 and compared it to Map 1 on the overhead projector of businesses that exist and the proposed expansion of the quarry. The activities of the mine are no louder than the ambient noise in the area. Mr. Weger stated this is a valid application and one that should be granted. It is consistent with the uses in the area that have been going on for decades and it is a valuable public service to have the aggregate necessary close by to build the highways. Aggregate is necessary to do anything. He would suggest that the public interest is best served by the granting of the Special Exception. APAC complies with zoning code. APAC has all their permits. APAC gets monitored and has no complaints over all the issues being raised today. Mr. Weger would request the granting of the application.

Comments and Questions:

Mr. White stated that in looking at Exhibit 2.10 showing the current and future operations, the current operations show the dates of 2015 to 2030. In talking about expanding toward the raceway, the dates shown are 2030 to 2045. The area east of 129th, show the dates of 2045 to 2065. He thinks that the industrial neighbors concerns are quite valid and not totally unfounded. Mr. White stated that he has lived in Tulsa all his life and has heard the blasts. Mr. White stated he cannot see approving the request for the area listed as the future operations that far into the future. By their own plans they say they are going to operate until 2030 in the current area and they are permitted for that and have the zoning relief for that. Mr. White stated that APAC can always come back later and apply for relief depending on the situation at the time.

Mr. Henke agreed with Mr. White. Mr. Henke stated that there are several different businesses that find the current operation a nuisance to them. When speaking about the expansion of what is there today and moving within a half mile to the John Zink Company, it would be crazy to think that is not going to have an impact. Mr. Henke stated that he cannot support the expansion because the language says "not to be injurious to the neighborhood". There would not be ten plus protestants here today if they were not currently disturbed by what is going on at the APAC site. APAC is allowed to be there and doing what they doing but to expand it raises concerns.

Ms. Snyder stated that if the neighbors have complaints now it is going to get worse. She thinks when APAC first went into operation things were different. Ms. Snyder believes APAC relied upon the zoning when they became established.

Mr. Flanagan stated that in regards to what Mr. Murphy, Mr. Christensen, Mr. Coates, and Mr. Momeni said he would tend to think this will not be harmonious to the area. He would not vote in favor of the request.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Snyder, White "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **DENY** the request for a Special Exception to permit a quarry in the IM and AG Districts (Section 301 & Section 901) for being injurious to the neighborhood; for the following property:

PRT N/2 SEC BEG 988.86E SWC SW NW TH N1319.83 E1648.86 TO PT ON EL NW S660.64 E2637.58 TO NEC S/2 S/2 NE S661.79 W4285.09 POB SEC 20 20 14 90.006ACS; PRT LT 1 BEG NWC LT 1 TH E5173.94 S823.63 W3856.50 W1317.35 N920.35 POB BLK 1; W/2 NE SW & NW SW LESS BEG NWC N/2 N/2 SW TH E1991.67 S17 NW189.65 W1324.54 S446 W477.63 N456 POB SEC 21 20 14 54.637ACS; BEG SWC NW TH N311 E302 N349.06 E687.09 S659.91 W988.86 POB LESS W50 THEREOF FOR RD SEC 20 20 14 12.202ACS; BEG NWC N/2 N/2 SW TH E1991.67 S17 NW189.65 W1324.54 S446 W477.63 N456 POB SEC 21 20 14 5.363ACS; LT-9-BLK-2; LT-10-BLK-2; LTS 11 & 12 BLK 2; LTS 6 7 & 8 BLK 2; LT-5 BLK-2; N.490.95' OF LT 4 BLK 2 LESS N.5' & LESS E.25' TO PUBLIC; S.150' OF LT 4 BLK 2 LESS E.25 TO PUBLIC; LT 3 BLK 2; LT 2 LESS W140.78 S150 THEREOF BLK 2; W140.78 S150 LT 2 BLK 2; LT-1-BLK-2; LTS 1 & 2 BLK 1; LT-3-BLK-1; LT-4-BLK-1; LT-5-BLK-1; LT-6-BLK-1; LT-7-BLK-1; LT-8-BLK-1; LT-9-BLK-1; LT-10-BLK-1; LT-11-BLK-1; LT 12 LESS E250 & LESS W25 & S5 THEREOF BLK 1; W125 E250 LT 12 LESS S5 THEREOF BLK 1; E125 LT 12 LESS S5 THEREOF BLK 1, APACHE ADDN, AIRPARK DISTRIBUTION CENTER, GOFIT, RACEWAY ADDN, LANGLEY ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21982—Peyton Haralson

Action Requested:

Variance to permit three (3) projecting signs along South Boulder Avenue on the subject lot; Variance to allow projecting signs to be less than 30 feet apart (Section 1221.C). **LOCATION:** 423 South Boulder Avenue West (CD 4)

Ms. Snyder recused and left the meeting at 3:10 P.M.

Presentation:

Peyton Haralson, Tulsa Parking Authority, 175 East 2nd Street, Suite #410, Tulsa, OK; stated this is a request for three projecting signs along Boulder Avenue; 423 South Boulder is where the garage structure is located. This is to replace an existing sign.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-1 (Henke, Flanagan, White “aye”; no “nays”; Snyder “abstaining”; Van De Wiele absent) to **APPROVE** the request for a **Variance** to permit three (3) projecting signs along South Boulder Avenue on the subject lot; **Variance** to allow projecting signs to be less than 30 feet apart (Section 1221.C), subject to conceptual photos 4.12 and 4.14. The hardship being that the buildings located in the CBD District are built to the property line not leaving any room for signs to be installed on the property itself, hence they will be projecting on to the City property. The signs are necessary to provide notice to the public of the available parking in the area. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

LTS 1 & 2 & N50 LT 3 LTS 7 & 8 & N50 LT 6 ALL IN BLK 135 & N200 VACATED ALLEY IN BLK 135, TULSA-ORIGINAL TOWN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Ms. Snyder re-entered the meeting at 3:14 P.M.

NEW APPLICATIONS

21996—Jim Congleton

Action Requested:

Special Exception to permit a 6 foot fence in the required front yard with an 8 foot gate height in the RS-1 District (Section 210.B.3). **LOCATION:** 2929 East 73rd Street South (**CD 2**)

Presentation:

Jim Congleton, 3120 South Owasso Avenue, Tulsa, OK; stated this is a newly acquired property and he would like to build a six foot fence around the property. There

are eight or nine developments in the area; two have no front yard fences, the neighbor has a front yard fence being four feet in height in some areas and five feet in height in other areas. The six foot is common to all the homes in the area and many of them have eight foot fences. This request is for an ornamental fence similar to the other neighbors in the area. There will be no blocking of anyone's view.

Mr. White asked Mr. Congleton to what extent will the area be that the fence is going to cover. Mr. Congleton stated the fence is proposed to go around the entire property but the relief is only for the area that is in violation of the zoning code.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Snyder, White "aye"; no "nays"; nor "abstentions"; Van De Wiele absent) to **APPROVE** the request for a Special Exception to permit a 6 foot fence in the required front yard with an 8 foot gate height in the RS-1 District (Section 210.B.3), subject to per plan 6.7. This will be an ornamental iron fence which will be installed on the property line. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 5, ROCKWOOD HILLS ESTATES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21997—Ziomara Rodriguez

Action Requested:

Special Exception to permit a mobile home in the RS-3 District (Section 401, Table 1); Special Exception to extend the one-year time limit on a mobile home (Section 404.E.1). **LOCATION:** 4018 East Xyler Street North **(CD 3)**

Mr. White recused at 3:19 P.M.

Presentation:

Ziomara Rodriguez, 4018 East Xyler Street, Tulsa, OK; stated she would like to have a manufactured home to live in.

Mr. Henke asked Ms. Rodriguez how long she had lived in the manufactured home. Ms. Rodriguez stated that she purchased the property over a year ago.

Mr. White left the meeting at 3:19 P.M.

Interested Parties:

Jerry Basford, 4151 East Xyler Street, Tulsa, OK; stated that he has lived there since 1966. Mr. Basford stated he is opposed to the application because there is a restriction on the housing addition that no mobile homes can be in the neighborhood and there are no other mobile homes in the neighborhood.

Mr. White re-entered the meeting at 3:22 P.M.

Tracy Watkins, 4151 East Xyler Street, Tulsa, OK; stated she is opposed to the mobile home in the neighborhood. She was born and raised in the neighborhood. Ms. Watkins stated that she is not against the people that want to move in, it is just that this is a neighborhood of houses and a mobile home is out of character with the neighborhood. This will lower the property values and it is not fair to the other people that have tried to make it a nice neighborhood.

Willie Mae Lightner, 2228 North Richmond Avenue, Tulsa, OK; stated she made the telephone call to the officials. The detached garage is no longer on the property. Ms. Lightner had pictures of the subject mobile home placed on the overhead projector. She mailed a letter to her neighbors on October 9th. Prior to October 9th the land was a vacant lot and no one lived on the lot prior to October 9, 2015. Ms. Lightner stated the mobile home is an eye sore and the neighborhood is a restricted residential area. Ms. Lightner stated that she would not be able to purchase land anywhere, like 31st and Yale or 71st and Yale, and place a mobile home on the land regardless to the age or foundation and expect to be approved to stay there. She lives in the neighborhood and did not receive a letter, but she sent out a letter and contacted the Permit Office and asked how this could be allowed prior to being approved. Ms. Lightner stated that she is not sure if the utilities are hooked up but she believes there is a generator but there is no one there.

Mr. Henke stated that the mobile home has not been approved and that is why Ms. Rodriguez is here asking for the relief.

Ms. Lightner asked how can a person bring a mobile home into a restricted area whether that person understood it or not and set stake on the land. How was it permissible?

Mr. Henke stated that permissible and it taking place are two different things. Ms. Rodriguez could have paid someone or moved the mobile home herself, he does not know and cannot speak to that. It does not mean that it was allowed.

Ms. Lightner stated this is a restricted neighborhood and the mobile home is out of character for the neighborhood.

Stanley Lightner, 2228 North Richmond Avenue, Tulsa, OK; stated he has lived in the area for 25 years. Mostly everyone in the neighborhood has remodeled their homes and there are a lot of elderly people. Mr. Lightner stated that he does not have anything against Ms. Rodriguez moving the trailer house in, but there is a trailer park at Apache and Harvard and there are houses for sale in the neighborhood. Mr. Lightner stated that he came home after his brother-in-law's wedding on September 9th and the trailer house was on the lot. Prior to that there was a house on the lot.

Kenika Moss, 4410 East Xyler, Tulsa, OK; stated she owns the property at 4410 East Xyler which is about two blocks from the subject property. Ms. Moss stated that she believes if Ms. Rodriguez were aware of situation she would have looked and found a better location suitable for her mobile home rather than just finding an empty space. Ms. Moss stated that the neighborhood does not want rezoning because they want to keep it as it is for all the residents. This could lead into more people making the same application so they want to keep the neighborhood as it is. It is not the million dollar home project area but it is a very nice area.

Lisa Maxwell, 3920 East Xyler Street, Tulsa, OK; stated she just had her property appraised and the appraiser told her the trailer being on the lot is taking the property values down because it is not an actual standard built house. It is something that was brought into the neighborhood and just sat it there. Ms. Maxwell stated that Ms. Rodriguez did not do any of the steps that she was supposed to do before moving the mobile home into the neighborhood. There are already other things going on in the neighborhood, like people parking their cars in the yard or emptying their trash. The street of Xyler is horrible and now the neighbors have to deal with a trailer. If Ms. Rodriguez is approved for this how many more will move in? There are so many empty houses on that street and throughout the neighborhood that Ms. Rodriguez could have purchased a house instead of moving a trailer into the neighborhood. The neighbors should not have to deal with this. Ms. Maxwell stated that if she wanted to live in a trailer house she would move into a trailer park. Ms. Maxwell stated that she has lived in the neighborhood since 1991 and she does not think this is right or fair.

William Craig, 4013 East Xyler Street, Tulsa, OK; stated that it is difficult to be civil about this situation but he will be. He has to look at this mobile home from his front porch. He has lived in his house since 1977 and it has been a fine neighborhood. These houses were built under deed restrictions and this situation degrades the neighborhood tremendously. This also degrades the property values. Mr. Craig stated that he is in the process of selling his house and the appraisal is 25% to 30% less than what it should be. He has compared the selling prices of houses in the square mile

section around his house and his property is value is down. He is sorry this has happened in the neighborhood and does not want to see this application approved.

Rebuttal:

Ms. Rodriguez came forward and stated that before she purchased the trailer she bought the lot and called the permit center to see if a trailer was allowed on a lot. They told informed her that she would need a building permit and appear before the Board of Adjustment because the area is restricted. Ms. Rodriguez stated that in the subject area there are other houses but nothing has been updated or taken care of.

Mr. Henke stated that the problem is that relief is needed from the Board to permit the manufactured home on the lot, and it is completely out of character. There are probably other restrictions in place that, even if the Board granted the relief, the mobile home could not be there due to other restrictions.

Ms. Rodriguez stated that the permit center gave her instructions because anywhere in the State of Oklahoma a mobile home can be anywhere. The mobile home is almost finished. She plans to have shingles installed, the siding is exactly like the other houses in the neighborhood, and it will have a foundation.

Mr. Henke informed Ms. Rodriguez that he thinks the information and advice she has received was not correct. If someone told her that she could place a mobile home on the lot without receiving permission or relief from the Board they were incorrect. Ms. Rodriguez stated that she understands she does not have the permission yet. Mr. Henke asked Ms. Rodriguez if she understood that there were no other mobile homes in the neighborhood. Ms. Rodriguez stated that she had concerns about purchasing the lot.

Ms. Rodriguez stated that had been a house on the lot and she had it demolished. There are utilities on the property and ready to be hooked up. Ms. Rodriguez stated that she has friends who have placed their mobile home on a residential lot with the County and it has not been such a big ordeal.

Mr. Henke stated the Board will go into discussion. The mobile home looks like it is in good shape and he understands that Ms. Rodriguez thinks it looks better than other houses in the neighborhood but the way the Zoning Code treats a manufactured home versus a conventionally built house is different. The Board cannot change that and must follow the Code, and whether it is out of character or detrimental. Mr. Henke stated that neighbors have expressed their opinions about it being detrimental. Ms. Rodriguez stated that there is a mobile home area that is not far away from the subject lot but there are RVs and small mobile homes. Mr. Henke stated that maybe the mobile home park location could be another opportunity if the Board does not grant the requested relief, but there is nothing restricting another house to be constructed on the subject lot like the houses in the neighborhood.

Ms. Rodriguez asked what she is to do after this, will she receive a letter? Mr. Henke stated that if the Board denies the Special Exception requests the manufactured home will have to be removed. Ms. Rodriguez stated that she has lived in Tulsa all her life and could not find a house in her neighborhood, and she is a single parent with two children and she has done everything that the permit center has told her. This is not the first time a mobile home is going to be on a lot in the State of Oklahoma. Mr. Henke said he was sorry that the Board could not be more helpful but Ms. Rodriguez needs to find another location. Ms. Rodriguez stated that is her lot and it is her home. Ms. Rodriguez informed Ms. Rodriguez that she could build a house on the lot but in terms of having permission to have a manufactured home on the lot he does not think the permission will be given by the City of Tulsa. Ms. Rodriguez stated that this is outrageous and she is confused.

Comments and Questions:

None.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 3-0-1 (Henke, Flanagan, Snyder "aye"; no "nays"; White "abstaining"; Van De Wiele absent) to **DENY** the request for a Special Exception to permit a mobile home in the RS-3 District (Section 401, Table 1); Special Exception to extend the one-year time limit on a mobile home (Section 404.E.1) based on this out of character with the neighborhood and it would be injurious and detrimental to the public welfare and the existing homes in the neighborhood; for the following property:

LT 1 BLK 4, OAK RIDGE ADDN - TULSA, NEW HAVEN ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. White re-entered the meeting at 3:49 P.M.

17831-A—A-MAX Sign Company

Action Requested:

Modification of a previously approved plan (BOA-17831). **LOCATION:** 7777 South Lewis Avenue **(CD 2)**

Presentation:

Brian Ward, 9520 East 55th Place, Tulsa, OK; stated that in the early 1970s when ORU Mabee Center was built there was an accompanying sign structure. When it was built it had light bulb technology. As technology progresses there is a need to replace the boards every 10 to 12 years. The first sign lasted until approximately 1980 and it was replaced, and about every ten years the sign is being replaced. In 1997 the sign came before the Board and that was the last case on this particular sign, and what was approved was a 317 square foot message board and that is basically what is there now.

Mr. Ward stated sometime, and he is not sure when, the configuration of the sign is different in physical shape although it is about the same square footage. When he applied for a permit application it was denied based on the physical size being different from what was approved in 1997. Although the sign is five square feet less in the application than what was approved in 1997 the permit center denied the application based on the Board's approval of the plans submitted. What he is asking for is approval of a new message board to be installed and for the Board to approve 317 square feet of message board so when this technology become obsolete the sign can be replaced without needing to come back before the Board.

Mr. Henke left the meeting at 3:50 P.M.

Mr. Flanagan asked Mr. Ward to confirm that he wants approval for the square footage that exists but was not corrected from the 1997 plan. Mr. Ward stated the plan was approved in 1997 for 317 square feet and the sign is now approximately 315 square feet. So he is asking for approval for the square footage rather than approval per plan so in ten years when the equipment becomes obsolete it is not necessary to appear before the Board.

Mr. Henke re-entered the meeting at 3:53 P.M.

Mr. Ward stated that if the Board is to approve this request he would like to motion to stipulate that the digital portion of the sign is not exceed 317 square feet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 4-0-0 (Henke, Flanagan, Snyder, White "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a **Modification** of a previously approved plan (BOA-17831) to approve the sign that says Mabee Center on Exhibit 8.14, that would be a 12 x 26 foot digital sign. The digital part of the sign will never exceed 317 square feet. This insures that the modification is compatible with and not injurious to the surrounding area and meets the previously granted Board relief other than what was just stipulated and it meets the zoning requirements per Code; for the following property:

**BLK 1 LESS BEG SWC TH N22 SE31.19 W22 POB, ORAL ROBERTS UNIVERSITY
HGTS, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

21620-A—Ted Larkin

Action Requested:

Modification of a previously approved site plan (BOA-21620). **LOCATION:** 11910 East 11th Street South (CD 6)

Presentation:

Ted Larkin, Architect, 6481 East Keetonville Road, Claremore, OK; stated he represents Midtown Auto Auction, LLC. There have been two modifications made to the originally approved site plan. One is to relocate the building and two is to improve the perimeter security. The building is moved 100 feet to the southwest for the express purpose of avoiding the demolition of substructure concrete and slab from a previous building. The original site plan had security fence around approximately 70% of the three acres and the owner has decided to enclose the entire three acres within a security fence. There were three existing curb cuts, one on each of the three streets surrounding the property and the owner has eliminated the curb cut on 11th Street.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-1-0 (Henke, Flanagan, White “aye”; Snyder “nay”; no “abstentions”; Van De Wiele absent) to **APPROVE** the request for a Modification of a previously approved site plan (BOA-21620), subject to per plan 9.15. The Board has found that the proposed modification is compatible with and non-injurious to the surrounding area and meets the previously granted Board relief and meets the zoning requirements per Code; for the following property:

**LT 1 BLK 1, ELEVENTH STREET II ADDN RESUB L2 B1 ELEVENTH ST ADDN,
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

21999—Lamar Outdoor Advertising – Lorinda Elizando

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 feet from another outdoor advertising sign on the same side of the highway (Section 1221.F.2); 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 1221.G.10). **LOCATION:** 4812 South 109th East Avenue (CD 7)

Presentation:

The applicant was not present.

Mr. Henke stated that the Board has received the applicant's survey which is on page 11.7 in the Board's agenda packet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Snyder, White "aye"; no "nays"; no "abstentions"; Van De Wiele absent) based upon the facts in this matter as they presently exist, the Board **ACCEPTS** the applicant's verification of spacing between outdoor advertising signs, for either a digital or conventional billboard, subject to the action of the Board being void should another digital or standard outdoor advertising sign be constructed prior to this sign; for the following property:

LOT 1 BLOCK 1, TULSA MEDICAL PROPERTIES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22000—Ralph Cooks

Action Requested:

Variance of the maximum floor area for a detached accessory building to 936 square feet (Section 402.B.1). **LOCATION:** 857 North 33rd West Avenue **(CD 1)**

Presentation:

Ralph Cooks, 857 North 33rd West Avenue, Tulsa, OK; stated he is requesting the additional footage to be on the rear of his garage, which would be a 20 x 18 addition. Mr. Cooks stated that he has lived there for 15 years and has made the property beautiful but he needs to clean up and that is the reason for the request. Mr. Cooks stated that his hardship is the size of his lot because it is two acres in size.

Interested Parties:

Mark Parks, 933 North 33rd West Avenue, Tulsa, OK; stated he lives on the hill behind the subject property and has lived there approximately 30 years. Mr. Parks stated that history has shown that the City of Tulsa has not been able to keep this property in his area going downward. Mr. Parks stated he is opposed to the proposed addition because there is a pallet business being operated on a residential property with no permits. Mr. Parks stated that he has never thought it was proper and when he calls Code Enforcement he gets nowhere. His reason is not because he thinks they are not

good neighbors, but because it is unsightly when driving down the road to see all the pallets.

Rebuttal:

Mr. Cooks came forward and stated that he does not have a business; he rebuilds them and people ask him for them but it is not a business. Mr. Cooks stated that if that is the problem he can move the pallets or get rid of them.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SNYDER**, the Board voted 4-0-0 (Henke, Flanagan, Snyder, White "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a **Variance** of the maximum floor area for a detached accessory building to 936 square feet (Section 402.B.1), subject to conceptual plan 12.12. The Board has found that this is an unusually large lot and so it has the capacity for the proposed size garage. This garage cannot be used for a business or any business type purpose. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variances to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

33-20-12 S 264' of W 330' of SW SW NE LESS S 15' RD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22001—Josh Hamilton

Action Requested:

Special Exception to permit car sales in the CS District (Section 701, Table 1); **Variance** to allow outside display of merchandise within 300 feet of the R District (Section 1217.C.2). **LOCATION:** 708 South Sheridan Road East **(CD 5)**

Presentation:

Josh Hamilton, 708 South Sheridan Road, Tulsa, OK; stated he owns the property across the street at 715 South Sheridan which was vacant for about four years. He would like to move across the street. He can store his cars inside without any worries of the cars being broke into or vandalized. He will not be displaying any cars outside but was advised by INCOG that if he would ever want to display cars outside he would need the Variance relief. Mr. Hamilton stated that he has spoke with all the neighbors and they all have said they are fine with the proposal.

Mr. White asked Mr. Hamilton if he could live with just having the sales inside the building. Mr. Hamilton answered affirmatively. Mr. Hamilton stated that he does pull the car outside to wash them but he will never have any stickers on them and they will not be displayed. Mr. Hamilton stated that all his cars will be inside the building with sales to be by appointment only.

Mr. Hamilton stated that he only has five cars now and he only has 2008 or newer, so he would not want to leave the car outside.

Mr. White asked Mr. Swiney if the applicant were to withdraw the Variance request would that make it more open for the applicant to come back later should he ever feel the necessity, because he is inclined to approve the Special Exception and deny the Variance. Mr. Swiney stated that if Mr. Hamilton withdrew his request for the Variance today it would be better. Mr. Hamilton stated that he will withdraw the Variance request now.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Snyder, White “aye”; no “nays”; no “abstentions”; Van De Wiele absent) to **APPROVE** the request for a **Special Exception** to permit car sales in the CS District (Section 701, Table 1). The applicant has withdrawn the Variance request. Finding the Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

N 100 OF W 165 OF E 180 BLK 59, GLENHAVEN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22003—Eller & Detrich – Andrew Shank

Action Requested:

Variance of the allowable height for an outdoor advertising sign in the IM District (Section 1221.F.15). **LOCATION:** 2976 North Florence Avenue East **(CD 1)**

Presentation:

Andrew Shank, Eller & Detrich, 2727 East 21st Street, Suite #200, Tulsa, OK; had a photo placed on the overhead projector to show the elevation of the Gilcrease Expressway. This will not be the typical 50 foot outdoor advertising that a person sees driving on the highway. In the City of Tulsa, most of the very elevated portions of the highways are either owned by ODOT or the City of Tulsa for right-of-way interchanges

or cloverleaf patterns. Or they are similar to the subject property and they address a unique aspect of the property. Here Mr. Shank believes the highway is elevated to address the railroad track that serves the industrial district nearby. Mr. Shank had photos placed on the overhead projector to show the area being discussed in relation to the highway and the subject property. The request is for 80 feet because it is about 34.5 feet from the grade to the railing of the expressway.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Flanagan, Snyder, White "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a **Variance** of the allowable height for an outdoor advertising sign in the IM District (Section 1221.F.15), subject to conceptual plan 15.12 for the layout. The significant elevation of the pertinent portion of the Gilcrease Expressway results in an unnecessary hardship to the applicant. This approval will allow the outdoor advertising sign to go from 60 to 80 feet. The sign will be located along a portion of the Gilcrease Expressway that is elevated more than 30 feet from grade at the base of the proposed signs. The survey indicates that it is 34.5 feet above the grade of the expressway. With the requested Variance the proposed outdoor advertising sign will be 50 feet in height in relation to the driving surface of the Gilcrease Expressway and is consistent with the elevation of other outdoor advertising signs along freeway corridors as regulated by the Code. finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

N75 LT 4 & ALL LT 5 BLK 3, SANTA FE INDUSTRIAL DISTRICT, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22004—Eller & Detrich – Andrew Shank

Action Requested:

Variance to allow an electronic message center within 200 feet of a residential district (Section 1221.C.2). **LOCATION:** 6116 South Lewis Avenue East **(CD 2)**

Presentation:

Andrew Shank, Eller & Detrich, 2727 East 21st Street, Suite #200, Tulsa, OK; stated this is a case that got off on the wrong foot. This application that is before the Board is on a uniquely shaped property. The uniqueness of the shape is that it is 200 feet deep off Lewis Avenue. That is problematic for CVS because under the Code they are zoned CS and they are entitled to an electronic message center by right. It is subject to dimensional criteria, where can it be placed, etc. Because of the depth of the tract and dedication of right-of-way along 61st Street and a drainage easement on the southern portion of the subject property CVS has limited area in which the sign can be located. They cannot ever get away from the multi-family property to the west. They originally came with an application with the sign located on 61st Street. That was a tough application because it was exposed to a lot of windows in the multi-family unit and the Board denied that application. Mr. Shank stated he is before the Board now with an application to locate the sign along Lewis Avenue. The electronic message center will be taken from the sign on 61st and place it in the sign on Lewis, in the bottom cabinet. CVS is requesting signage that is consistent with the area. As a person is driving south on Lewis and crest the hill at 51st there is a marked change in Lewis. Lewis goes from a residential kind of forest and large estates into a mixed use commercial and office corridor. The first thing a person sees when they crest the hill at I-44 there is Park Hills and Walgreens. Walgreens has the exact red dot time and temp information sign. As a person continues south on Lewis there are more offices, and although the Walgreens abutts multi-family, most of the commercial and office developments abutt multi-family or single family areas. There is a Sonic sign and Sonic also abutts multi-family. Then a little farther south there is Triad Bank that has an electronic message center and it abutts multi-family. CVS is requesting a 40 square foot electronic message center. Based on their frontage they are entitled to 600 square feet of display surface and they are requesting less than 6% of that. Mr. Shank had pictures that he took placed on the overhead projector and he explained the requested site of the sign and what is existing. The drainage channel cuts across the southern portion of the property that has an easement even though the channel goes underground. Mr. Shank stated that he met with Mr. Joyce, who attended the last meeting regarding this CVS sign, and he has no objections to the new placement of the sign. Mr. Shank stated that he also reached out to the President of the HOA and did not receive a return call. He has also met with a resident that was here and that attended the last meeting, and after speaking with her and showing her the photos of the new location she left because she was satisfied.

Mr. Henke asked Mr. Shank if the sign would be seen from any residence. Mr. Shank stated that he cannot say that because he has not been in the residential area, but he can say that the proposed sign on 61st could very clearly be seen from residential windows. At the current proposed location he does not think that is the case because the sign is screened by the building and screened by the masonry around the dumpsters.

Mr. Shank stated that CVS has given him permission to speak for the hours of operation of the sign, and that CVS has agreed the hours of operation would be 7:00 A.M. to 10:00 P.M.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Henke stated that he cannot support this request. There were issues with being able to see the sign. There were issues with having a precedent set. There were issues with the neighbors not wanting more signs.

Mr. Shank stated that at the last Board meeting Mr. Michael Joyce eloquently made comments about signage, and he would respectfully disagree with much of what he said in that he lead on that it was the Board's position to stop the signs. The Board does not have the power to zone. The Board's power is to look at the Code to see what uses are allowed by right. So the legislature is who should be telling us that they do not want any more electronic message centers. The request before the Board is allowed by right.

Ms. Snyder asked Mr. Shank to explain the hardship. Mr. Shank stated the hardship is the unique shape of the property; it is 200 feet deep.

Mr. Henke stated there is an existing sign that is internally lit and this request is for an electronic message center. There is nothing that says CVS is allowed to have an electronic message center. CVS can advertise without an electronic message center. Mr. Shank respectfully disagreed and stated that Section 1221.C.3 says on CS zoned property you are entitled to an electronic message center by right. There are dimensional criteria that has to be applied. If this were an office park he could not say that. He would have to come seeking a Variance to vary the constant light of signage. Mr. Henke stated then it is an inadequate piece of property for what CVS wants to do under the Code. Mr. Shank stated that is one interpretation and respectfully disagreed. Mr. Henke stated there are businesses throughout the City of Tulsa who are having no problem advertising their goods and services without an electronic message center. Mr. Shank agreed but he does not know what zoning those businesses are in, but this is all driven by the facts of the case. Mr. Henke stated that a lot of the businesses are not within 200 feet of a residential neighborhood. Mr. Shank stated that there are several in this corridor along Lewis, i.e., Triad Bank.

Ms. Snyder asked which residential area is within 200 feet of the proposed sign. Mr. Shank stated it is the apartments that are screened by the building and a fence around the dumpsters.

Mr. Henke asked Mr. Shank if he was also saying that the electronic message center is enclosed. Mr. Shank stated that it is in the cabinet and inside the mortar of the sign.

Ms. Snyder stated that she has a hard time with signs. She thinks that if one business gets it then the next thing there are 20 people requesting a sign. It is just a constant sign after sign after sign.

Mr. Henke stated that the signs are a problem at an intersection. Safety. Pollution. Mr. Henke stated that what is proposed is not overly offensive and it is screened from the neighborhood and this is a close call.

Mr. White stated that this has been argued at length previously and he believes that most of the issues that were discussed have been resolved. In view of the size of the lot and the restrictions he thinks most of the problems have been resolved to allow it.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-1-0 (Flanagan, Snyder, White "aye"; Henke "nay"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a **Variance** to allow an electronic message center within 200 feet of a residential district (Section 1221.C.2). This approval will be for the same structure that exists. The sign is in the existing structure as shown on page 16.24. This sign will be in operation from 7:00 A.M. to 10:00 P.M. This will comply with all the other requirements of Section 1221.C.2.c. The hardship being the lot depth for the particular tract with the drainage easement right-of-way dedication keeps the sign from being placed at a significantly different location. The message center will be 179.5 feet from the RM zoned property but located more than 200 feet from the apartment building to the west. The proposed sign will not be shining into any of the windows of the apartment building to the west. Finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

PRT LT 1 & LT 6 BEG 10S TH S300 W150.01 SW64.99 N341.66 E200 POB LESS BEG NEC LT 1 TH S29.92 CRV LF 21.81 E29.92 LESS N10 BLK 1, MICHAEL'S GLEN RESUB L2-4 OF RESUB L1 PECAN ACRES, PECAN ACRES RESUB L1, PECAN ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Ms. Miller stated that the new Zoning Code will be discussed at the first meeting in January. Mr. Kirk Bishop, the zoning code consultant, will give a training session on the most relevant issues to the Board.

Mr. Henke asked if the training had to be done during the meeting, or if it could be after the meeting. Mr. Henke suggested that it would be better to have the training as a work session at the INCOG offices. Ms. Miller stated it would need to be on January 12th because that is when Mr. Bishop is here. Mr. Henke suggested having the training either before or after. Ms. Miller suggested that they talk about to sync calendars.

Mr. Henke wished everyone a Merry Christmas and a Happy New Year.

There being no further business, the meeting adjourned at 4:51 p.m.

Date approved: 1/12/16

Frank X. Henke, II
Chair