

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1156
Tuesday, February 23, 2016, 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 Van De Wiele White, Vice Chair		Miller Moye Sparger	Swiney, Legal Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, February 18, 2016, at 9:31 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 **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the February 9, 2016 Board of Adjustment meeting (No. 1155) with modifications as suggested by Chair Henke.

UNFINISHED BUSINESS

None.

NEW APPLICATIONS

22036—David Winn

Action Requested:

Variance to reduce the required lot width in the AG District; Variance to reduce the required lot area and lot area per dwelling unit requirement to permit a lot split (Section 25.020-C). **LOCATION:** 837 West 91st Street South (CD 2)

Presentation:

Staff has withdrawn this application; the property owner does not consent to this application.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

**NW SW SW SE & W30 SW SW SW SE LESS S24.75 W30 SE SEC 14 18 12
2.71ACS, JENKS WEST 3RD & 4TH GRADE CENTER ADDITION, CITY OF TULSA,
TULSA COUNTY, STATE OF OKLAHOMA**

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OTHER BUSINESS

22036—David Winn

Action Requested:

Variance to reduce the required lot width in the AG District; Variance to reduce the required lot area and lot area per dwelling unit requirement to permit a lot split (Section 25.020-C). **LOCATION:** 837 West 91st Street South (CD 2)

Staff has withdrawn this application and recommends a refund of the application fees of \$350.00.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **REFUND** in the amount of \$350.00; for the following property:

NW SW SW SE & W30 SW SW SW SE LESS S24.75 W30 SE SEC 14 18 12
2.71ACS, JENKS WEST 3RD & 4TH GRADE CENTER ADDITION, CITY OF TULSA,
TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

22030—Crista Patrick

Action Requested:

Special Exception to expand a non-conforming structure in the RM-1 District
(Section 80.030-D). **LOCATION:** 1918 North Joplin Avenue East **(CD 3)**

Presentation:

Crista Patrick, 1918 North Joplin Avenue, Tulsa, OK; stated she would like to build two bedrooms on the south side of the existing house. The addition will be no farther to the east than the existing structure.

Mr. White asked what the structure to the north used to be. Ms. Patrick stated that it used to be a church and it has a separate address but it is on the same subject lot.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to expand a non-conforming structure in the RM-1 District (Section 80.030-D), subject to conceptual plan 2.9. 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:

**LTS 1 THRU 6 BLK 12, DAWSON AMD (ORIGINAL TOWNSITE), CITY OF TULSA,
TULSA COUNTY, STATE OF OKLAHOMA**

22031—Philip Doyle

Action Requested:

Special Exception to permit a fence and wall height greater than 4 feet in the required street setback (front yard) of an RE District (Section 45.080-A).

LOCATION: 2120 East 46th Street South (CD 9)

Presentation:

Philip Doyle, 2616 East 14th Street, Tulsa, OK; stated he would like to have a privacy fence on the north side of the subject property. The street is a dead end or a cul-de-sac and the back yards of the houses to the north face the subject property.

Mr. Van De Wiele asked Mr. Doyle if the long portions of the fence were going to be solid masonry and the short portions are to be wrought iron. Mr. Doyle answered affirmatively and stated they will vary from five feet to eight feet depending on the slope.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a fence and wall height greater than 4 feet in the required street setback (front yard) of an RE District (Section 45.080-A), subject to conceptual plans 3.8 and 3.10 and the maximum height of any wall or fence section will not be greater than eight feet. 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:

E. 1/2 W. 2/3 N. 1/2 NW NE SE & N. 2/3 W. 1/2 E. 1/3 N. 1/2 NW NE SE SEC 30-19-13, WENTWORTH ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22033—Mark Capron

Action Requested:

Variance to reduce the required building setback to 30 feet from East 31st Street South (Tract A); Variance to reduce the required building setback to 15 feet from South Lewis Avenue (Tract A & B); Variance to the required open space per unit 3,719 square feet (Tract A) (Section 5.030-A). **LOCATION:** 2258 East 31st Street South (CD 9)

Presentation:

Mark Capron, 6111 East 32nd Place, Tulsa, OK; stated this is part of a tract of land that is part of an old subdivision in an older part of Tulsa dating back to the 1940s, and it was established prior to the Zoning Code that exists now. There was an existing house there for many years that had been built in the 1940s but the house has now been demolished. He is attempting to establish the setback lines per the original plat. The hardship is that both South Lewis and East 31st Street have over dedicated right-of-ways per today's standard. South Lewis has a 50 foot dedication and East 31st Street has a 40 foot dedication. In addition to that there is a very odd radius on the corner of the lot. Today's Zoning Code goes off the property line and not the centerline of the streets, and last year the measurement was taken from the centerline per the Street and Highway Plan and met a 70 foot setback line. Today's Zoning Code goes off the property line for a 35 foot setback no matter what the dedication is, but in this case it took up a lot more ground because the property is on a corner with two arterial streets. So instead of trying to get the right-of-way back from the City he is asking that the building setback lines be brought back to the original plat; 15 feet off the property line on Lewis and 30 feet on 31st Street. The buildings to the west and to the south of the subject property were also built prior to the Zoning Code, and the house to the south and the house to the west are both 15 feet off the property line. The owner does not intend on building the proposed to the property line in all four directions and meets all the bulk and area requirements for the RS-2 zoning. The second Variance request is due to the odd radius that was added, and the radius that was added was because the two existing right-of-way lines and put a typical corner clip 35 foot radius per the zoning regulations today. The owner is trying to take that property and call it open space. His client approached him about vacating the right-of-way and he thought this approach was more appropriate rather than vacating the right-of-way. Subsequent to the lot split that was approved by the Planning Commission with conditions, his client must extend the sanitary sewer and the City requires that it is not accessed off Lewis. There will be one driveway that will serve both tracts and it will come from 31st Street. There will be a mutual access granted to the benefit of Tract B through Tract A.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to reduce the required building setback to 30 feet from East 31st Street South (Tract A); Variance to reduce the required building setback to 15 feet from South Lewis Avenue (Tract A & B); Variance to the required open space per unit 3,719 square feet (Tract A) (Section 5.030-A), subject to per plan 4.14 and the plan submitted today. The hardship in this case is the fact that the house that was there was built before the 1970 Zoning Code and since that time the right-of-way has been changed on 31st Street

and Lewis Avenue, and the applicant wishes to build on Tracts A and B and restore the new structures back to the original setbacks from the original plat. The Variance of the required open space per unit is basically to keep the area and the curvature of the corner still within the City's public right-of-way. The Board has determined that the following facts have been established:

- 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
- That literal enforcement of the subject Zoning Code provision is not necessary to achieve the provision's intended purpose
- The conditions leading to the need of the requested Variances are unique to the subject property and not applicable, generally, to other property within the same zoning classification
- That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner
- That the Variance to be granted is the minimum Variance that will afford relief
- That the Variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, not substantially or permanently impair use or development of adjacent property; and
- That the Variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this Code or the Comprehensive Plan; for the following property:

LT 1 BLK 1, OAKNOLL, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22034—Casey Stubbs

Action Requested:

Special Exception to permit vehicle sales in the CS District (Section 15.020-C); Variance to allow for outdoor storage and outdoor merchandise display within 300 feet of an abutting R District (Section 15.040-A). **LOCATION:** 9020 East 31st Street South **(CD 7)**

Presentation:

Casey Stubbs, 710 East Delmar Street, Broken Arrow, OK; stated the subject property is currently an auto repair shop that his father operates and now would like to convert it to auto sales. Mr. Stubbs stated there are two auto sales facilities close to Mingo Road that are in the CS District that have had Special Exceptions. His father is getting older and can no longer perform the actual repairs and wants to change his source of income.

Mr. Henke stated this is not necessarily out of character for the neighborhood but on the Variance he will defer to the Board for a valid hardship.

Mr. White asked Mr. Stubbs if there would be vehicle repair along with the vehicle sales. Mr. Stubbs stated that the business would go strictly to the sales due to his father's age.

Mr. White asked Mr. Stubbs if all the vehicles would be operable vehicles. Mr. Stubbs answered affirmatively.

Mr. White asked Mr. Stubbs how many cars would be on the lot. Mr. Stubbs stated that the lot could probably hold 50 to 80 cars but it will only be his father so there would be a maximum of 20 to 30 cars.

Mr. White asked Ms. Miller if she had received any feedback concerning the density of autos on a lot. Ms. Miller stated that she had not, but the conversation regarding the parking lot density had taken place but there was not a decision by the Permit Office to apply parking lot design standards to car lots. Ms. Miller stated that the Board could impose a condition requiring the auto sales lot to meet the parking lot design standards.

Mr. Swiney stated the Board could make a condition that traffic must be able to freely pass around the cars that are for sale. Mr. White asked Mr. Swiney if he meant movement as in a normal parking lot. Mr. Swiney answered affirmatively.

Mr. Swiney asked Mr. Stubbs if the subject lot belonged to his father. Mr. Stubbs stated that his father rents the subject lot but does not own it. The property owner called his father about two years ago and asked his father for his help to keep the auto repair shop operating. Mr. Stubbs stated that his father has rented the subject property since 1996.

Mr. White asked Mr. Stubbs what type of merchandise would be displayed outdoors, i.e., tires, batteries, etc. Mr. Stubbs stated that the merchandise would just be vehicles only.

Mr. Swiney stated that vehicle repair is a use by right so Mr. Stubbs does not need permission to have vehicle repair on the subject lot, but vehicle sales is a Special Exception use so he needs permission from the Board. On page 15.7 of the Zoning Code it states that outdoor storage and outdoor merchandise displays are prohibited within 300 feet of an abutting R District. So any time a person is going to supercede a law that is written in such language there has to be a very good reason to do that, and that is what the language of the Variance requires.

Mr. Swiney stated the Special Exception to permit vehicle sales would permit vehicle sales in an enclosed building. Mr. Stubbs stated that the building has only two bays.

Mr. Henke asked Mr. Stubbs if he would like to continue his hearing to another date so he could explore different avenues for a hardship. Mr. Swiney stated the Board can rule on the request or Mr. Stubbs can withdraw his application.

Mr. Henke asked Mr. Stubbs if he would like to continue this case. Mr. Stubbs stated that he would like to withdraw the Variance request and have a decision made on the Special Exception request.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated he is having a hard time coming up with a valid hardship.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit vehicle sales in the CS District (Section 15.020-C), noting that the Variance request has been withdrawn by the applicant at this meeting. 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:

BEG 903.7 E NW COR NE TH S 150 E 150 N 150 W 150 TO BEG LESS N 50 FOR ST SEC 24-19-13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

22035—Mary Ellen Jones

Action Requested:

Variance to allow two dwellings on one lot of record (Section 35.010-A); Special Exception to permit a manufactured tiny home in the RE District (Section 5.020); Special Exception to remove the one year time limit and allow the manufactured tiny home permanently (Section 40.210-B); Variance of the parking requirement for the tiny home from 2 spaces to 0 spaces (Section 55.020). **LOCATION:** 4191 South Zunis Avenue East **(CD 9)**

Mr. Van De Wiele recused and left the meeting at 1:44 P.M.

Presentation:

Mary Ellen Jones, 4191 South Zunis Avenue, Tulsa, OK; stated that she would like to install a tiny home in her back yard for her son to live in, because he has an illness that prevents him from living completely independently. Currently he is living with her and they both would like to have their own private space yet she would like to have him close by. The tiny home idea looked like a nice solution that would meet her son's needs.

Mr. Henke asked Ms. Jones if she knew of any other tiny homes or secondary homes in the neighborhood. Ms. Jones stated that she was not aware of any.

Ms. Jones stated that she has seen the e-mails expressing concerns and she would like to work with the neighbors that have the concerns to come up with a solution. Ms. Jones stated that she knows one of the concerns is that the tiny home has wheels and technically considered a mobile home and could set a precedent for turning Bolewood Acres into a trailer park. Ms. Jones stated that the actual tiny home does not look like a mobile home at all, but she is willing to remove the wheels because her plan is to anchor it to a concrete foundation making it a stationary home. Ms. Jones stated the tiny home will not have a separate address and the utility lines will be run to the tiny home and will be all on the same bill. The lot will not be split and she has no plans of renting the tiny home as long as she owns it. Ms. Stubbs stated that the tiny home will be a fully functioning house and there is at least one other guest house in the neighborhood that is a fully functioning house with a bathroom and kitchen. She assumes that if she were to build a tiny home from scratch it would be the same as the other guest house, and if that were to be acceptable she would do that instead.

Mr. Henke asked Ms. Jones if she was saying that the other guest house is an unattached second house. Ms. Jones answered affirmatively and stated that the other guest house has been called a pool house, but she has lived in her house for 40 years and she knows the previous owners had family living in it for several years. Ms. Jones stated that she is unsure as to when the guest house next door was built because it was there when she moved in, but her house was built in 1953.

Ms. Jones stated that she knows there has been concern over the fact that it would not look like her house, but she could paint the tiny home to look like her house if that help alleviate that concern. The concerns from across Lewis, that seem to focus on being able to look down into her yard from Lewis, a person can actually not see much because there are a lot of trees and in the summer you cannot see her yard at all. Ms. Jones stated that she would be willing to erect a privacy fence on the Lewis side of her property but it will be difficult because there is a ditch that runs along her back yard. All the water from the neighborhood across Lewis comes under Lewis and pours into her back yard when it rains so the fence will have to be contoured with a swinging gate that will open when it rains.

Mr. White asked Ms. Jones if she had spoken to any of the neighbors about the tiny home. Ms. Jones stated that she had a little bit and the first couple of people she had mentioned it to stated that it sounded like a good idea. Ms. Jones stated that she has also received a few positive e-mails that came unsolicited.

Mr. Henke stated that he is familiar with the residential estate zoning and he can understand why a lot of the neighbors are very concerned about the proposed request. It really goes against the definition of the zoning classification. Mr. Henke stated that he understands that the tiny home is for her son and that Ms. Jones has no intention of

renting it, but when speaking about adding new homes, tiny or not tiny, it certainly will raise some eyebrows especially in an RE zoned district.

Mr. White stated this is the first tiny home requested that has come before this Board. There is controversy and the question that he has been known to ask before is has Ms. Jones considered adding on to the existing residence with a limited outside access. That would make it part of the structure and Ms. Jones would not even need to come before the Board for relief. Ms. Jones stated that is something that she would have to give more thought to especially because of the way her house is layed out. Mr. White stated that it is something to consider and it may be cheaper than a tiny home.

Ms. Snyder stated that on top of the fact that Ms. Jones needs a Special Exception she also needs a Variance for two dwellings on one lot of record, so she will need a valid hardship to allow it that is not self imposed.

Mr. Flanagan stated that he is involved in real estate and he thinks that if Ms. Jones did a home addition it would actually cost less per square foot than the tiny home. Not only that it would have a foundation under an existing structure so it would probably add more value to the existing house than a tiny home.

Ms. Jones asked the Board if a new structure allowed because she understands that it is only a manufactured home requires a Special Exception. Mr. White asked Ms. Jones if she was referring to a new separate structure. Ms. Jones answered affirmatively. Mr. White stated that it would still be considered two dwellings on one lot, whereas if it were a room or suite of rooms attached to the house itself that would be considered an extension.

Interested Parties:

Kate Jennemann, 4183 South Zunis Avenue, Tulsa, OK; stated she is Ms. Jones neighbor to the north. Her specific concerns are that the tiny home and the traditional mobile home are grouped into together and considered to be one in the same by the Zoning Committee. If the precedent is set to allow the tiny house that may open the door for more egregious structures such as a regular mobile home. Secondly, Ms. Jones had mentioned the guest houses in the neighborhood, specifically her guest house, but it is a traditional stand alone style home made of the identical style, color and materials of the main house. The reason Ms. Jones is seeking a zoning variance is because the tiny home concept has never been seen in Bolewood, therefore, it is different enough from the traditional style guest house to need such a Variance. Ms. Jennemann stated that she does not want the precedent set in the neighborhood for allowing mobile homes in Bolewood Acres.

Mr. White asked Ms. Jennemann when her guest house was built. Ms. Jennemann stated the guest house was built before she purchased the property and she is not sure of the date. Mr. White asked Ms. Jennemann if she thought the guest house was built as early as 1970. Ms. Jennemann answered affirmatively.

Ruth Nelson, 4131 Oak Road, Tulsa, OK; stated she owns three properties in the immediate neighborhood. Ms. Nelson stated that Bolewood has traditionally been a neighborhood of acre spacing for houses. The Bolewood neighborhood was made estate zoning with the help of Robert LaFortune years ago. The Bolewood Neighborhood Association has uniformly been against lot splits and by placing one dwelling on one lot that is not large enough to split is the same as a lot split. She has a great deal of sympathy for the applicant and her concern for her son, but she concurs with the Board that the best solution would be to build onto the existing house with a separate entrance for each party for privacy.

Dr. Mike Hinkle, 2410 East 44th Place, Tulsa, OK; stated he is speaking on behalf of Greenhill Home Owners Association which is directly east across the property from Mrs. Jones house. The gate tower is in the middle of Lewis as designated by the diagram presented. Dr. Hinkle stated there are two attorneys that live in the neighborhood and they have both written letters on behalf of the neighborhood along with other concerns of other citizens. Dr. Hinkle stated that the Association is very sorry about the situation of Mrs. Jones and her family. Dr. Hinkle stated that he studies Zillow all the time and it shows that Mrs. Jones house is one of the smallest in Bolewood and what is called North Bolewood. Dr. Hinkle stated that if Mrs. Jones chose to add onto her existing house there is plenty of room because there is over an acre in her lot. Dr. Hinkle stated that he appreciates Mrs. Jones offer to built a fence because there are three houses to the north that have provided privacy fencing, and Mrs. Jones has a cyclone fence so the house can be seen so the neighbors do see the back of her house very clearly. Dr. Hinkle stated that the neighbors request that any structure that Mrs. Jones adds on, that it be an exact match, or as close as possible, to the existing house. The neighbors object to the placing of a separate house on the property unless the City would allow Mrs. Jones to build from the ground up a structure that matches in style and materials. The neighbors object to bringing in a manufactured home on wheels. The neighbors object to the concept of what is okay today will always be okay, because at some point in time there is a possibility that the subject house will be sold to another family. With the two structures on the property a new family would have the right to attempt to subdivide the back portion of the lot. The Greenhill entry is also there and it is a dangerous entry because of the hill and the majority of home owners are retirees, and the neighbors do not want another entry from the west side of the street because of that concern. Dr. Hinkle stated that neighbors object to the parking issue in its entirety. Dr. Hinkle stated that the neighbors are prepared to object to this request as far as necessary as presented at this time.

Lawrence Halkle, 4101 South Victor Court, Tulsa, OK; stated that two residences on one lot without a lot split is totally contrary to the Zoning Code. Mrs. Jones lived in the house when the RE zoning was commenced a number of years ago. Residences of Bolewood enjoy that RE zoning and have done much to combat lot splits or the constructing of structures that are not in keeping with the Bolewood neighborhood. Mr. Halkle stated that he does not think there is a hardship and empathizes with Mrs. Jones and her son's condition, but as others have said adding onto the existing structure with or without a separate exterior entrance is the better solution. Mr. Halkle stated that

placing a tiny home in the back yard of an existing structure is detrimental to the neighborhood and the nature of the neighborhood. The neighborhood enjoys its character and welcomes the people that similarly do. The neighbors object to somebody who would choose to change that character without a true emergency or hazardous situation.

Rebuttal:

Mr. Henke offered Ms. Jones time for rebuttal and Ms. Jones declined.

Comments and Questions:

Mr. Henke stated that he cannot support the request based on his previous comments made.

Mr. White stated that he sympathizes with the situation but this is totally out of character for the area. Through the years the Board has turned down similar requests for separate structures for many reasons, but this is out of character.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Henke, Flanagan, Snyder, White "aye"; no "nays"; Van De Wiele "abstaining"; none absent) to **DENY** the request for a Variance to allow two dwellings on one lot of record (Section 35.010-A); Special Exception to permit a manufactured tiny home in the RE District (Section 5.020); Special Exception to remove the one year time limit and allow the manufactured tiny home permanently (Section 40.210-B); Variance of the parking requirement for the tiny home from 2 spaces to 0 spaces (Section 55.020), finding that it is not compatible with the area and it would be injurious and detrimental to the public good; for the following property:

LT 7 BLK 1, BOLEWOOD ACRES, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Van De Wiele re-entered the meeting at 2:11 P.M.

22037—Isaac Hiriart

Action Requested:

Special Exception to permit vehicle sales in the CS District (Section 15.020-C); Variance to allow for outdoor storage and outdoor merchandise display within 300 feet of an abutting R District (Section 15.040-A). **LOCATION:** 3225 South Yale Avenue East (**CD 5**)

Presentation:

Isaac Hiriart, 8822 South 75th East Avenue, Tulsa, OK; stated that he is currently operating a vehicle repair facility and would like to switch the focus of the business to car sales. He believes it will improve the appearance of the property by having vehicles

that are running and for sale versus having older vehicles that do not run. He will switch from working on other people's vehicles to working on his own vehicles. Mr. Hiriart stated that it is difficult to sell cars that are indoors, however, he does have a warehouse where he plans keeping the cars that are not ready for sale indoors so they will not deteriorate the appearance of the property. If he cannot receive an approval for the Variance he can consider using the warehouse to sell the vehicles indoors.

Mr. White asked if there were three buildings on the subject property. Mr. Hiriart answered affirmatively. Mr. White asked if the building on the southeast corner was to be the office. Mr. Hiriart answered affirmatively. Mr. White asked Mr. Hiriart what he proposed for the other two buildings. Mr. Hiriart stated that the building asked about is also the building that he proposes to use as a warehouse, and the other building will be used as a shop to repair his own vehicles.

Mr. Van De Wiele asked Mr. Hiriart what his hardship is to allow the display of merchandise outside next to the residential district. Mr. Henke stated that Mr. Hiriart had stated that it is harder to sell cars indoors versus outdoors. Mr. Van De Wiele asked Mr. Hiriart if that was his only hardship. Mr. Hiriart stated that he believes it would be the best interest of the City to maintain something better. Mr. Henke stated that the Board approved the Special Exception in the previous case because it was not out of character and was not detrimental to the surrounding area, and the applicant withdrew the Variance request because it was a self imposed hardship; there was nothing about the buildings or land involved.

Mr. Hiriart stated that he thinks the hardship for him would be that it is more difficult to sell vehicles indoors than outdoors. He does not plan on having very many cars, but there will be about eight to ten cars at a time for sale on the lot. He believes having eight clean fresh vehicles parked on the subject lot as opposed to broken down vehicles is a better appearance for the property.

Mr. White asked how many additional vehicles above the eight will be on the property for employees and such. Mr. Hiriart stated that there will be four or five vehicles and there will be a designated parking for those cars in between both buildings.

Mr. Van De Wiele asked if there was a car wash on the north end of the property. Mr. Hiriart answered affirmatively and stated that it is not currently operating but he is working with the owner to get the car wash operable.

Mr. Henke asked Mr. Hiriart if he rented the subject property. Mr. Hiriart answered affirmatively.

Interested Parties:

Karri Hartman, 3217 South Fulton Avenue, Tulsa, OK; stated she has lived in the neighborhood since 1979. Ms. Hartman stated that the section of Yale from 31st to 34th Streets there is currently another car lot, a U-Haul, and a storage station. The neighbors feel that another car lot is going to set the area into a downward spin. Ms.

Hartman stated that she has spoken with several of the residents and businesses in the area and they are opposed which she has several letters for. She stated the apartments behind the subject property have submitted a letter stating they do not want a car lot backed up to their apartments. Ms. Hartman asked the Board to consider if they would want a car lot backed up to their residential area and please vote accordingly.

Jennifer Harmon, 3523 South Louisville Avenue, Tulsa, OK; stated she is President and alert neighbors captain with the Sonoma Midtown Neighborhood Association. The Association has discussed this request with the neighbors on both sides of Yale, Mr. Hiriart and the owner of the property and the neighbors are on the fence about this request because they are not sure they want to see the current auto repair chaos versus a car lot, because cleaner cars are certainly more appealing to the eye when driving by. The neighbors are in agreement that they want to do what is helpful to the area but they don't want to set a precedent where this type of business would be attracted because the neighborhood currently teeters on the cusp of the neighborhood going either way. Ms. Harmon asked if this request is approved can another tenant make the same property a car lot or would they too need to request a Special Exception and a Variance.

Ms. Miller stated that a Variance runs with the land so it does not matter if the property ownership changes hands a hundred times, as long as the business stays in operation. But after three years of nonuse from time of approval the right for the use will go away.

Ms. Harmon stated that the neighbors are on the fence about the request because they are not opposed to a small lot, especially if it means there will not be a repair shop there any longer. Because what is outside now is unsightly.

Mr. Van De Wiele asked Mr. Hiriart if he was going to have a repair shop for vehicles. Mr. Hiriart stated that he will be repairing his own vehicles that are to be sold on the lot, but he will no longer be working with the public on vehicle repairs. Mr. Van De Wiele stated that regardless if a car needs a new engine it needs a new engine and if the public is driving by they do not know who owns the vehicle. The public would not see autos in disrepair on the lot because the vehicles to be repaired would be on the inside while vehicles for sale would be on the outside. Mr. Van De Wiele asked Mr. Hiriart if he plans on having the majority of his vehicles come from an auction. Mr. Hiriart answered affirmatively. Mr. Hiriart stated that the property has warehouse that can house about 12 to 18 vehicles inside that are slated to be repaired, and after they are ready the cars would be placed on the lot outside. Mr. Hiriart stated that there is also another car dealership across the street that he believes is within 300 feet of a residential area.

Mary Hujset, 3227 South Fulton, Tulsa, OK; stated that her family has had a home in the Highland Park neighborhood for over 60 years. Ms. Hujset stated that this corner is a blight to the City. There is a strip club, a martini bar, a U-Haul that is an eye-sore, and there is already a car lot there; she has even seen prostitutes walking up and down this

portion of Yale. Ms. Hujset stated that something to consider is that when the Fair is going on people drive down the Broken Arrow Expressway and get off at the exit this area is the first introduction to the City of Tulsa. People in the area do not live in Maple Ridge but they do love their homes in the neighborhood and she does not think something like this would ever be considered to be put in near Maple Ridge.

Terri Higgs, 3206 South Darlington Avenue, Tulsa, OK; stated she lives right behind the subject property. Ms. Higgs wished Mr. Hiriart well in his business but the area between 31st and 33rd Streets on Yale she thinks could be prime area. There is amazing highway access, people can walk to a grocery store and can walk to a movie theatre, etc. but the area just keeps attracting more and more businesses, bars, and strip clubs. Ms. Higgs stated that Mr. Hiriart is correct, there is another car lot on the northwest corner of 33rd Street and Yale; it is right next to an apartment complex. That building has been a variety of things; it has been a lube shop and there have been cars sold there off and on. Ms. Higgs stated there is a problem with visibility going into and out the neighborhood because of the U-Haul business because they constantly have signs right on the corner and they park the trucks there, and people headed east on 33rd Street cannot see because the car lot has cars parked on the corner. People cannot see to get in and out of the neighborhood. The neighbors would like to see the property cleaned up but she cannot see how what Mr. Hiriart is describing will be an improvement. The neighborhood is not opposed to progress but they are not sure that this proposal is progress.

Mr. White left the meeting at 2:29 P.M.

Ms. Jennifer Harmon came forward stated that it seems like everyone would like to have a conversation about this request because everyone is looking forward to have improvements made to the area, so if there is a discussion that everyone could have about this request it would be wonderful.

Mr. White re-entered the meeting at 2:31 P.M.

Rebuttal:

Mr. Hiriart came forward and stated that he understands the concerns that the neighbors have brought forward. He does not believe that changing the use of the property will impact or get in the way of the neighborhood. The way he plans to use the property will not create any problems or deteriorate the area should the Board approve this request. He is willing to be available to speak and work with the neighbors.

Mr. Henke asked Mr. Hiriart when his lease will expire. Mr. Hiriart stated that he believes he has another 18 months.

Comments and Questions:

Ms. Snyder stated that she believes the issues involved with this property, as in the other case, are self imposed and economic.

Mr. Van De Wiele stated that he agrees with the applicant, it is harder to sell cars indoors than it is outdoors. If this were a lot within a commercially zoned area a person could sell and display outside without a Variance. It is the fact that this lot abuts the residential district to the east that causes the situation that the applicant is in. The car lot across the street does not abut an R District so that lot would not have the same burden as the applicant's. The fact that it is harder to sell cars inside versus outside he does not see a hardship that would support the Variance. Mr. Van De Wiele stated he can support the Special Exception to sell the cars indoors.

Mr. Henke stated that he could support the Special Exception but not the Variance. Mr. Henke stated that if he does vote for the Special Exception it would be tied to the lease.

Mr. White asked staff about the statement of "300 feet abutting an R District"; it is either abutting or within 300 feet so what is the Board to consider? If it is abutting it is zero feet or is the Board to look to the nearest R District irrespective of what is in between if that is less than 300 feet. Ms. Miller stated that she will look up the specific code. This is an issue that may not be relevant to this case but it is an issue that has come up before and would like to have an interpretation from staff.

Mr. Swiney stated that if hypothetically there is a 400 foot lot and there was merchandise at the front of the lot so that it is more than 300 feet away from the abutting residential district, is Mr. White asking if that would satisfy the requirement. Mr. White stated yes, but in the application the property description given covers the entire property. It does not stipulate in that description that the merchandise will be at the front portion of the property.

Ms. Miller stated that there was a case, the recycling company in north Tulsa, where the lot was so large that there was plenty of places on the site to store items outside of the 300 foot radius.

Mr. Swiney asked the Board to allow him and his colleagues time to study the issue and report back. Mr. Henke agreed and thanked Mr. Swiney.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Henke, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to permit vehicle sales in the CS District (Section 15.020-C), finding that 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. The approval of the Special Exception will have a time limit of two years from today's date, February 23, 2018. To **DENY** the request for a **Variance** to

allow for outdoor storage and outdoor merchandise display within 300 feet of an abutting R District (Section 15.040-A) for lack of a hardship; for the following property:

**PRT NW NW BEG 758S NWC NW TH S172 E245 N172 W245 LESS W50 THEREOF
SEC 22 19 13, MUNICH ADDN, YORKSHIRE ESTATES, CITY OF TULSA, TULSA
COUNTY, STATE OF OKLAHOMA**

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

There being no further business, the meeting adjourned at 2:41 p.m.

Date approved: 3/8/16

Frank X. H. [Signature]

Chair