

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1164  
Tuesday, June 28, 2016, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2<sup>nd</sup> Street

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

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, June 23, 2016, at 11:57 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

Mr. Van De Wiele introduced and welcomed a new member, Mr. Austin Bond, to the Board of Adjustment.

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

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**MINUTES**

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; Bond "abstaining"; none absent) to **APPROVE** the **Minutes** of the June 14, 2016 Board of Adjustment meeting (No. 1163).

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**NEW APPLICATIONS**

**22094—Eric Grimshaw**

**Action Requested:**

Special Exception to permit the expansion of a non-conforming structure in the RS-1 District (Section 80.030-D). **LOCATION:** 2639 East 33<sup>rd</sup> Place South **(CD 9)**

**Presentation:**

Staff is requesting a Continuance to allow the case to be re-noticed.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **CONTINUE** the request for a Special Exception to permit the expansion of a non-conforming structure in the RS-1 District (Section 80.030-D) to the July 26, 2016 Board of Adjustment meeting; for the following property:

**LT-7-BLK-1, TIMBERLAND ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

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**UNFINISHED BUSINESS**

**22074—Claude Neon Federal Signs**

**Action Requested:**

Variance to allow a dynamic display sign within 200 feet of the R District (Section 60.100-F). **LOCATION:** 3902 East 11<sup>th</sup> Street South **(CD 4)**

**Presentation:**

The applicant was not present. The Chair moved this item to the end of the agenda.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

No Board action required at this time.

## **22080—Kalen Sitler**

### **Action Requested:**

Variance of the allowable square footage for detached accessory buildings in the RS-2 District to 2,418 square feet (Section 45.030-B); Variance of the allowable height for a detached accessory building to allow the building to exceed 10 feet at the top of the top plate and 18 feet overall (Section 90.090-C); Variance to allow a gravel parking area to the accessory building (Section 55.090-F). **LOCATION:** 1329 South 135<sup>th</sup> East Avenue (CD 6)

### **Presentation:**

**Kalen Sitler**, 3615 South 213<sup>th</sup> East Avenue, Broken Arrow, OK; stated he has owned the five acres for 30 years and there was a building on the property that was demolished by a storm. The new building was erected in the old building's place and went two feet taller than the original building to accommodate his father's travel trailer. The new building was built primarily to shelter his parents travel trailer. The new building is the same footprint as the old building. The parking is actually concrete but the driveway is gravel and the gravel driveway has been there for 30 years and he would like to be able to keep the driveway as it is.

Mr. White asked Mr. Sitler which lots he owned because the building is on Lot 6. Mr. Sitler stated that he owns Lots 3, 4, 5, and 6 and each lot is 1 ¼ acres making a total of five acres.

Mr. White asked if the driveway was accessed by 135<sup>th</sup> East Avenue or 14<sup>th</sup> Street. Mr. Sitler stated the driveway is accessed from 135<sup>th</sup> East Avenue.

Mr. White asked staff about the advertising of the request, because it is advertised for Lot 6 but not Lot 5 and the gravel driveway goes through Lot 5. Ms. Moyer stated that the advertising is okay as it is. Ms. Moyer stated that what called the gravel driveway into question is the rebuilding of the accessory building on Lot 6. As long as nothing is altered on Lot 5 it will be okay.

### **Interested Parties:**

There were no interested parties present.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the allowable square footage for detached accessory buildings in the RS-2 District to 2,418 square feet (Section 45.030-B); Variance of the allowable height for a

detached accessory building to allow the building to exceed 10 feet at the top of the top plate and 18 feet overall (Section 90.090-C); Variance to allow a gravel driveway/parking area to the accessory building (Section 55.090-F). This approval will be for the property as it currently exists with no proposed changes and as reflected on page 3.16. The building occupies the same footprint as a building that had been in that location for approximately 30 years; same location and same area. The building height was increased to accommodate a larger travel trailer. The gravel driveway to the parking area is adjacent to the building and the access driveway from Lot 5 is gravel and has been grandfathered in. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

**LT 6 BLK 8, ROMOLAND, City of Tulsa, Tulsa County, State of Oklahoma**

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**NEW APPLICATIONS**

**22075—Nathan Cross**

**Action Requested:**

Variance from the requirement that all lots occupied by a self-service storage facility have frontage onto an arterial street (Section 40.360). **LOCATION:** West of the NW/c of South Peoria Avenue and East Skelly Drive **(CD 9)**

**Presentation:**

**Nathan Cross**, 502 West 6<sup>th</sup> Street, Tulsa, OK; stated this is a unique commercial lot and is the third lot that was the old Camelot Hotel. Mr. Cross represents Oklahoma

Central Credit Union who is in the commercial building east of the subject lot. Oklahoma Central Credit Union has been the property off through the years. Due to the sale of property QuikTrip the commercially zoned lot on the back side of the subject property has no arterial street access. The property recently went through the Planning Commission and received a recommendation for approval of rezoning with an optional development plan for a self-storage facility on the subject property. Unfortunately, a self-storage facility is required by the Code to be on an arterial street. This is a unique situation in that the street frontage is Skelly Drive which is heavily traveled but not an arterial street even though it has similar characteristics. The curb cut on the south side was installed by QuikTrip and it will be the curb cut used by the self-storage facility. The self-storage facility will not be adding a curb cut and will not be significantly adding to the traffic flow in and out of the existing curb cut. The hardship for this unique property is that it is a large commercial lot that has no arterial street frontage.

Mr. Van De Wiele asked Mr. Cross if there would be access from Newport Avenue to the self-storage facility. Mr. Cross stated that there would not be any access from Newport Avenue. Matter of fact, the self-storage facility will be erecting an eight foot concrete wall all along Newport Avenue to buffer the facility from the neighborhood.

Mr. Flanagan asked if there would be only a Skelly Drive access to the subject property. Mr. Cross stated that there is a mutual access agreement with QuikTrip under negotiation that will allow the self-storage patrons to travel across the QuikTrip property north of the building and the gas island.

Mr. Cross stated that the self-storage facility will maintain the existing trees on Newport Avenue for the length of the subject property, and there will be an eight foot masonry wall erected on that side of the lot. So there will never be a plan for access to the subject property from Newport because it is the back side of the facility.

Mr. Cross stated that he met with the neighbors through the rezoning process and listened to their concerns, and the neighbors now support the development.

Mr. White asked Mr. Cross if there would be two access points to the subject property, one through the QuikTrip property and one through the Credit Union property. Mr. Cross stated that the Credit Union property, although it has a curb cut, he thinks will run into a wall so it will be removed. Mr. Cross stated that the access points that he has seen goes through the QuikTrip property and through the curb cut on the south from Skelly Drive.

Ms. Snyder asked Mr. Cross about the parking for the self-storage facility. Mr. Cross stated there is a small amount of parking on the east side of the facility. It is a self-storage facility so the traffic counts are relatively low and there will not be a lot of people stopping in at the same time. The facility owners estimate they will have about 24 cars a day if that much.

Mr. White asked Mr. Cross if the Credit Union would own the property. Mr. Cross stated that the Credit Union is selling the property and this application is part of the zoning. Mr. White asked Mr. Cross if the Credit Union would be staying in their location on Peoria. Mr. Cross answered affirmatively.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **SNYDER**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Variance** from the requirement that all lots occupied by a self-service storage facility have frontage onto an arterial street (Section 40.360), subject to conceptual plan 4.10. The Board has found that the tenant is currently negotiating access with QuikTrip and Skelly Drive is for all practical purposes an arterial street. The Board makes this approval under the further condition that the self-storage facility is to construct an eight foot concrete wall along South Newport Avenue to protect the neighborhood and maintain the existing trees along their portion of Newport Avenue. The Board has found that the neighbors are in support of this request. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

**Beginning at the southwest corner of said Lot 17, Block 16; hence north 01°11'45"; west along the westerly line of said lots 17, 16, 15, 14, 13 and 12 for 393.60 ft to the northwest corner of said Lot 12; thence north 88°51'33" east along and through the northerly line of lot 12 for 192.36 ft to a point; thence south**

1°11'45" east for a distance of 103.49 ft to a point; thence south 88°49'35" west for a distance of 10.50 ft to a point; thence south 1°11'45" east for a distance of 295.37 ft to a point on the present north right-of-way line east of Skelly Drive; thence south 79°56'30" west along said right-of-way line, for a distance of 62.61 ft to a point; thence north 1°11'45" west continuing along said right-of-way line for a distance 14.97 ft to a point; thence south 88°51'33" west continuing along said right-of-way line, for a distance of 120 ft to the Point of Beginning. City of Tulsa, Tulsa County, State of Oklahoma

**22091—A-MAX Sign Company – Lori Worthington**

**Action Requested:**

Special Exception to permit a dynamic display sign for Forest Park Christian Church in the AG District (Section 60.050-2.C). **LOCATION:** 9102 South Mingo Road East (CD 7)

**Presentation:**

**Brian Ward**, A-MAX Sign Company, 9520 East 55<sup>th</sup> Place, Tulsa, OK; stated that he represents Forest Park Church. The application with the City of Tulsa meets all the requirements for dynamic display sign, however, the Zoning Code requires a Special Exception for the sign.

**Interested Parties:**

**Gary Bray**, 6612 East 86<sup>th</sup> Place, Tulsa, OK; stated he is a current member of Forest Park Christian Church and he is in support of the request. A survey of the complete membership of the church was just completed to determine the direction the membership would like to see the church go and to advance their work. The subject sign has not been changed for approximately 20 years and the church would like to have a newer sign to enable them to carry their message forward in an easier way.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a dynamic display sign for Forest Park Christian Church in the AG District (Section 60.050-2.C), subject to per plan 5.10 for the location and per plan 5.9 for the design. The sign is not changing location or orientation. 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 1 BLK 1, FOREST PARK CHURCH, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**18330-A—Terry McGee**

**Action Requested:**

Minor Special Exception to modify of a previously approved site plan to permit a temporary building (Section 70.120-E.1.c). **LOCATION:** 1365 East 46<sup>th</sup> Street North (CD 1)

**Presentation:**

The applicant was not present. The Chair moved this item to the end of the agenda.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

No Board action required at this time.

**22092—Claude Neon Federal Signs – Bob Dail**

**Action Requested:**

Special Exception to allow a dynamic display sign in the R District for Memorial High School (Section 60.050). **LOCATION:** 5840 South Hudson Avenue East (CD 9)

**Presentation:**

**Bob Dail**, Claude Neon Federal Signs, 1225 North Lansing Avenue, Tulsa, OK; stated he represents Memorial High School. There is an existing sign in front of the school that is approximately 40 years old and the school would like to have an upgraded sign. The new sign will be smaller and have a cleaner look. The school was concerned about the neighborhood across the street so they made sure the neighbors were involved in the process and there have been meetings with them. The neighbors liked the new proposed sign and they are on board with the change.

Mr. Van De Wiele asked Mr. Dail what the hours of operation would be for the sign. Mr. Dail stated the sign will operate according to the Code, and will be shut off at 9:00 P.M. and come back on at 7:00 A.M.

**Interested Parties:**

There were no interested parties present.



**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **SNYDER**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Special Exception to allow a dynamic display sign in the R District for Memorial High School (Section 60.050), subject to per plan 7.11, 7.12 and 7.13. The Board has found that this sign is a more modest sign than the existing sign. The neighborhood across the street and the neighborhood association has given the school their approval. 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 985N & 80W SECR SW TH N1865 W560 S875 W205 SWLY202 S790.63 E797.5  
POB SEC 34 19 13 29.30ACS, CITY OF TULSA, TULSA COUNTY, STATE OF  
OKLAHOMA**

**22093—Javier Carbajal**

**Action Requested:**

Special Exception to permit used car sales in the CS District (Section 15.020); Variance to allow outdoor storage and display of merchandise within 300 feet of the abutting R District (Section 15.040). **LOCATION:** 1307 North Harvard Avenue East (CD 3)

**Presentation:**

**Javier Carbajal**, 1307 North Harvard Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Mr. Carbajal how many vehicles he would have for sale outside on the lot. Mr. Carbajal stated there would be 10 to 15 cars on the lot.

Mr. Van De Wiele asked Mr. Carbajal if there would be any indoor sales excluding the sales office. Mr. Carbajal stated there would not.

Mr. White asked Mr. Carbajal if this application was simply for the continuance of the existing car sales lot. Mr. Carbajal answered affirmatively.

**Interested Parties:**

**Maricela Medrano**, 1916 North Atlanta Court, Tulsa, OK; asked if the Board were asking about the car sales lot that used to be on the subject property in relation to the continuance question. Mr. White stated there was an action in 2011 relating to the paint and body shop. Ms. Medrano stated that the proposed car sales lot is not connected to the auto paint and body shop. Mr. White asked Ms. Medrano if the proposed car sales

lot was separate ownership. Ms. Medrano stated they also own the paint and body shop but there are two separate buildings.

Mr. Van De Wiele asked if there would be body repair. Ms. Medrano stated there will be auto body repair but it will be in the other building not in the proposed car sales building.

Mr. Van De Wiele stated that it appears the Special Exception to operate the body repair shop has expired in March of 2016. Ms. Medrano stated that currently they would like to only do the car sales, and she asked the Board if she needed to renew the Special Exception. Mr. Van De Wiele stated that if she wants to do the body work the Special Exception will need to be renewed. Ms. Moyer stated that under the new Zoning Code, personal vehicle repair maintenance is allowed by right in the CS District.

Mr. White asked Ms. Medrano if she owned the property. Ms. Medrano answered affirmatively.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **SNYDER**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit used car sales in the CS District (Section 15.020); Variance to allow outdoor storage and display of merchandise within 300 feet of the abutting R District (Section 15.040), subject to conceptual plan 8.18. Although the conceptual plan designates an auto paint area there is no approval for the painting of vehicles on the subject property. The Board approved a maximum of 20 cars for sale on the subject property excluding the customer parking. There are to be no inoperable vehicles. There is to be no auto repair work performed on the vehicles outside. There is to be no tires stored outside. The applicant must meet Section 55.090 for the parking standards required. The approval for the Special Exception and Variance is for a period of ten years from today's date, expiring on June 28, 2026. 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. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;

- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

**BEG 30N & 40E SWC SW NW NW TH N150 E150 S150 W150 POB SEC 33 20 13,  
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**22095—King Architects Solutions, PLLC – Matt King**

**Action Requested:**

Variance of the required parking for a medical office in the OM District (Section 55.020). **LOCATION:** 3223 East 31<sup>st</sup> Street South **(CD 4)**

**Presentation:**

**Matt King**, King Architectural Solutions, 108 North Greenwood, Tulsa, OK; stated his client purchased this building without understanding the ramifications of what they had purchased. The hardship is that there is one way traffic on the site; one way in on the west side and one way out on the east side. The plan is to close the east side drive and have an outdoor area for children as a therapy source for the children. Because his client wants to take the one-way drive out he is required to make the driveway that comes into the property and make it a two-way for traffic. The parking has also been turned 90 degrees to accommodate that and an ADA ramp had to be added to the building and the parallel parking against the building was lost. The previous owners of the building had paved the south side of the site all the way to the sidewalk and were parking in the right-of-way which is not allowed so that is being removed. His clients are going to resurface and restripe the parking lot as shown on the diagram provided to the Board. The new striping will allow for 54 parking spaces and the Code requires 59. The permit for the project has been issued and Mr. King stated that he will go back and amend the permit per the new site plan.

Ms. Snyder asked Mr. King if the handicap parking were going to be placed in the area where the parallel parking used to be. Mr. King stated that there is a requirement to have three handicap parking spaces and there will be two on the south side.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **FLANAGAN**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a **Variance** of the required parking for a medical office in the OM District (Section 55.020), subject to conceptual plan 10.13. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision’s intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

**PRT SE SE BEG 540W SECR SE TH N330 W120 S330 E120 POB LESS S40 THEREOF FOR ST SEC 17 19 13 0.80AC AND THE W 15’ OF THE N 290’ OF THE S 330’ SE/4, SE/4, SE/4 SEC 17 19 13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**22096—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 60.080-F.5); **Verification** of the spacing requirement for a digital display outdoor advertising sign of 1,200 feet from any other digital display outdoor advertising sign facing the same traveled way (Section 60.100). **LOCATION:** 3811 East 51<sup>st</sup> Street South (CD 9)

**Presentation:**

Ms. Moyer stated that Ms. Elizondo had e-mailed her earlier this week stating that she would be not be able to attend today's hearing and respectfully requests the Board approve the spacing verification.

Mr. Van De Wiele announced that the Board is in receipt of the applicant's spacing verification.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

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

**PRT LT 1 BEG SWC TH N189.99 E57.19 NE78.58 S202.89 W134.30 POB LESS BEG SWC LT 1 TH E134.30 N10 W134.32 S10 POB FOR RD BLK 1, DICKENS COMMONS RESUB L3 B1 MORLAND ADD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**22097—Bobby Patterson**

**Action Requested:**

Special Exception to permit a large Assembly & Entertainment use in the IM District (Section 15.020). **LOCATION:** 6111 East 15<sup>th</sup> Street South East (CD 5)

**Mr. Flanagan left the meeting at 1:55 P.M.**

**Presentation:**

**Bobby Patterson**, 507 South Rockford, Tulsa, OK; stated he represents Group M Properties. This property was a previous dry cleaning facility and they had installed a parking lot on the east side for the delivery trucks and vans. The owner wants to sell the piece of property, which is approximately 592' x 100' wide, to an interested that would like have a large event center. The center will be a pre-engineering metal building. At this time the occupant count will be approximately 300, but a lot of that

depends on the City of Tulsa interpretation of the dance floor area because there is a different count for dance floor versus seating area. The event center will be a family oriented facility.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Mr. Flanagan re-entered the meeting at 2:00 P.M.**

**Board Action:**

On **MOTION** of **SNYDER**, the Board voted 4-0-1 (Bond, Snyder, Van De Wiele, White "aye"; no "nays"; Flanagan "abstaining"; none absent) to **APPROVE** the request for a **Special Exception** to permit a large Assembly & Entertainment event center use in the IM District (Section 15.020), subject to conceptual plan 12.8. The Board is not making any approval in regards to the parking spaces. 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 40N & 49.16E SWC SE NE TH N592 E98.32 S592 W98.32 POB SEC 10 19 13,  
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**22098—Eller & Detrich – Andrew Shank**

**Action Requested:**

Modification of a previously approved site plan to add a storm shelter (Section 70.120-E.1.c); Variance of the parking requirement from 3 spaces to 0 spaces (Section 55.020, Table 55-2). **LOCATION:** 326 South College Avenue **(CD 4)**

**Presentation:**

**Andrew Shank**, Eller & Detrich, 2727 East 21<sup>st</sup> Street, Suite 200, Tulsa, OK; stated he represents the University of Tulsa. This application before the Board is a modification to an application the Board approved in 1996. The subject location is the home of the University School which is a private school for talented children ages three through eighth grade and is located within the campus of the University of Tulsa. The prior approval approved the layout and the modification is to add 2,890 square feet on the southwestern edge of the school to construct a storm shelter. The addition will be consistent with the character of the University School and the greater University of Tulsa. By adding the storm shelter the parking requirement is triggered based on the square footage. When the Board approved the site plan in 1996 it approved the Special

Exception and correlated Variance reducing the required parking at the time down to zero based on the unique circumstances that the University of Tulsa, as a whole, has more parking than the Code requires. That hardship remains true today. With the proposed addition there is no anticipated uptick in enrollment of students, faculty or staff for the University School. The University will be use the proposed storm shelter for more than a storm shelter. Mr. Shank presented a new analysis of the parking at the University of Tulsa using the new Zoning Code requirements and the calculations prove that there is still an excess of parking spaces today so he believes the hardship is appropriate and the underlying purpose of the parking provisions of the Zoning Code are met. Mr. Shank would request approval from the Board on today's request.

Mr. Van De Wiele asked Mr. Shank if the storm shelter would be along Evanston. Mr. Shank answered affirmatively further defining that it will be along the southwest edge.

Mr. Van De Wiele asked Mr. Shank if the proposed storm shelter was going to be used as classroom space. Mr. Shank stated that the primary purpose is for the storm shelter safety and an anticipated music class may be held in the shelter.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; Bond "abstaining"; none absent) to **APPROVE** the request for a Modification of a previously approved site plan to add a storm shelter (Section 70.120-E.1.c); Variance of the parking requirement from 3 spaces to 0 spaces (Section 55.020, Table 55-2), subject to conceptual plan submitted today, marked A-201. The Board refers to the applicant's submittal today of the new study of the parking space availability on Tulsa University property, finding that there is well in excess of sufficient space to cover the three spaces. The Board considers it necessary and reasonably related to the request to ensure the proposed modifications are compatible with and non-injurious to the surrounding area and meets the previously granted Board relief and meets the zoning requirements, per code. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;

- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

**All of Lots 2, 3, 4 and 5, Block 9, and that part of the vacated alleyway and existing alleyway which lies between Lots 2, 3 and 4 and Lots 5, 6 and 7, Block 9, all in PLEASANT VIEW ADDITION, City of Tulsa, Tulsa County, State of Oklahoma, and also Lots 32 and 33, Block 1, COLLEGE ADDITION, City of Tulsa, Tulsa County, State of Oklahoma, and that part of the vacated alleyway and existing alleyway which lies between the aforementioned Lot 5, Block 9, PLEASANT VIEW ADDITION, and Lots 31, 32 and 33, Block 1, COLLEGE ADDITION. CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**22099—Josh Lamb**

**Action Requested:**

Special Exception to allow a religious assembly use in the RS-3 District to permit the expansion of a parking area for an existing church (Section 55.080-D).

**LOCATION: 3718 & 3726 East 36<sup>th</sup> Place South (CD 9)**

**Presentation:**

**Josh Lamb**, 1501 East 6<sup>th</sup> Street, Tulsa, OK; before the applicant started his presentation Mr. Van De Wiele asked Mr. Lamb if he had the opportunity to meet with the attorneys from both sides. Mr. Lamb stated that he has not. Mr. Van De Wiele asked if it was something that he would consider a continuance to allow the opportunity for both sides to talk. Mr. Lamb deferred to Mr. Medrano.

**Steven Medrano**, 3640 South New Haven, Tulsa, OK; stated that currently regarding the impact to wildlife the only notice he has had is from a local organization that represents the owls in the community. There has been some discussion regarding the owls and through that a discussion with the neighbors that live in the area has ensued. It has not been founded that there is an owl habitat living within the property. Mr. Medrano stated there has been confusion regarding the properties. There are three vacant houses; two duplexes and a house that faces Louisville west of the duplexes. Mr. Medrano believes that it was originally thought that the house facing Louisville was part of the duplex development but that property does not belong to the church. The habitat of the owls is in the forestry of the backyard of that house and is isolated.

Mr. Van De Wiele stated the hearing will move forward in hearing this application.



Mr. White stated the Board has concerns because the agenda packet is received on Thursday or Friday, then there is a newspaper article appears over the weekend, then the 10:00 P.M. news runs a story regarding the owls last night so there are concerns. The Board has had many instances where something similar has come up well late into the game. The Board members can make a decision and will make the decision based on the facts that are presented to the Board. The Board has found that it works far better if the interested parties, who have not spoken together, will start talking to each other. That would be the property owner, the church, the attorneys for both sides, the wildlife groups, and anyone else involved would discuss the issue outside of this venue and reach a median ground.

Mr. Medrano stated that he believes that has already been done. This has not gone to litigation and there are no protestors standing on the sidelines. There has been a meeting with a lady from the homeowner's association and the owl society, so he does not know that there is still an issue for us to have a meeting. He does not feel that a derailment is the appropriate way to move if there is no longer an item of contention. He is prepared to bring the photos of the trees that are involved in this discussion and he has spoke with the neighbors. There does not seem to be an issue like there was in the beginning.

**Josh Lamb** came forward to make his presentation and stated that there are two existing lots that contain older duplexes. The church would like to expand their parking lot because currently the parishioners are parking along the street. There would be not additional points of ingress or egress but will enter from the existing church parking lot. The lady that lives on the far west end of the church parking lot uses that curb cut to turn around because she cannot turn around in her driveway. There was a discussion with her yesterday and that curb cut will remain and the church will allow her to use that right-of-way. Mr. Lamb stated that the proposal has been through the planning review at Development Services.

**Interested Parties:**

**Jennifer Harmon**, 3523 South Louisville Avenue, Tulsa, OK; stated she is the President of the Sonoma Midtown Neighborhood Association and the founder of Barred Owls of Midtown Tulsa. Ms. Harmon stated that she just heard about this meeting within the last 48 hours. She has spoken with Mr. Medrano just before the meeting and she believes he has misstated a little of what she understood about the habitat of the owls. The concern with the owls is that primarily if the houses are demolished they will also demo a lot of mature tall trees which are in fact a part of the yearly habitat of the owl parents. Ms. Harmon had a map placed on the overhead projectors with designated areas outlined and she explained what the outlined areas represent. Ms. Harmon stated the owl parents have chosen a hollowed out tree to nest in and raise their clutch. The owls start nesting in February and the eggs hatch around the first week of April. The owls' fledglings stay in the tree until around the first week of May and they begin to climb out, learn to fly and learn to hunt. The fledglings will start moving southward after the parent owls push them out of the nest, and that has been

the behavioral pattern of these particular parent owls. The parents will push the babies very far. They will not push the babies miles away but only a few blocks away. Ms. Harmon stated that her concern about the removal of the duplexes and the mature trees is that will the trees be removed while the babies are still there, because owls are protected raptors under federal law, and will the tree removal cut off the owls' highway. Owls use the trees, the older and the more dense trees, to travel similar to a highway. Ms. Harmon stated that she did speak with Mr. Medrano yesterday and did receive information from the International Owl Society. Ms. Harmon stated that she would prefer that the trees not be removed at all, and if the parking lot is approved could the mature trees stay. Ms. Harmon stated that she did ask Mr. Medrano if it were possible to not remove any of the trees west of the fence line that is west of the last duplex.

Mr. Van De Wiele stated that the area Ms. Harmon is referring to is not church property.

Ms. Harmon stated that the owls do not live in the duplex area but the way the owls move through the trees they will be more inclined to stay in the dense tree line along the fence and she has discussed this with the Cornell and the International Owl Society. So it became a question of if the Board approved the parking lot and the church did not save any of the trees could the church wait up to 60 days to do so. The International Owl Society has informed her it would be appropriate to wait until September to be sure the nesting season is over.

Mr. Van De Wiele asked Ms. Harmon if the owls migrated to another area in 60 days. Ms. Harmon stated that barred owls do not migrate. The parent owls are there and the babies will only go next door. Ms. Harmon stated that in about 60 days the babies will be scouting for their own tree.

Mr. Van De Wiele asked Ms. Harmon how many trees are on the lot where the owls are. Ms. Harmon stated there are a lot of trees. Ms. Harmon stated that she is speaking for the trees for the owls but as a neighborhood the opposition is that by taking out all of the trees there will be a giant bare parking lot thus no shade and lowering property values. The blank space will change the footprint of the neighborhood.

Mr. Van De Wiele asked staff if there are landscaping requirements for this proposal. Ms. Miller stated there are landscape requirements for parking lots but it is up to the applicant as to how they want to meet those requirements.

Mr. Van De Wiele asked Ms. Harmon how many mature trees she would estimate to be on the two lots. Ms. Harmon stated that she thinks there are seven or eight mature trees and they create a substantial amount of shade.

Ms. Harmon stated that the request is not allowed by right but if the discussion is going to take place it is appropriate to say this is an established habitat and has been established and the City has recognized it. So everyone has to try to work through this.

Mr. Van De Wiele asked Ms. Harmon if she said she had visited with the owl society. Ms. Harmon stated that she had visited with the International Owl Society. Mr. Van De Wiele asked Ms. Harmon if the Owl Society stated the owls were using the property to the west more than the subject property. Ms. Harmon stated the owls are using all of the trees on both sides, but the trees are more west to the west of the fence line. Mr. Van De Wiele asked Ms. Harmon if the owls were going to stay in the more dense trees. Ms. Harmon answered affirmatively.

Ms. Snyder asked Ms. Harmon if earlier she was asking that the trees not be removed until September because she did not want the baby owls to start nesting in them. Ms. Harmon answered affirmatively. Ms. Harmon stated that she records data about them every day and right she must inform PSO where the owls are located every day because of the tree trimming. Ms. Harmon stated that is been recorded that one of the baby owls is going east toward New Haven, but two of the baby owls are moving toward the duplexes.

Mr. Van De Wiele asked Ms. Harmon how she knows all of this. Ms. Harmon stated there are cameras placed everywhere that observes the owls. This season there are 1,004 data entries of information on these particular owls based on observing them inside the cavity of the tree and observing their every movement and every direction. All the neighbors make recordings onto a spread sheet and the information is forwarded to Cornell.

Ms. Snyder asked Ms. Harmon if someone was living in the house to the west of the duplexes. Mr. Medrano spoke from the audience and stated that house is abandoned. Ms. Snyder asked if there was anyone living in the duplexes. Mr. Medrano stated the duplexes are currently vacant.

Mr. Van De Wiele asked Ms. Harmon if she had data entries showing the owls in the trees along the fence line. Ms. Harmon stated the data entries have just started for this season and this is the first year that the recording process has been set up with Cornell.

Mr. White stated that this Board makes decisions and interpretations based upon the Zoning Code, and there is nothing in the Zoning Code that guarantees life which is not good for the case of the owls. But, in fact, state law and federal law will supersede the Zoning Code. Mr. White asked Ms. Harmon if there was any state or federal law that she is aware of that protects the rights of the owls to prevail over the wishes of the property owner. Ms. Harmon stated she is not before the Board to save all of the owls on the planet and not here to say the owls should prevail. The neighbors do everything possible to preserve the owls' safety so they can live and do what they do. Ms. Harmon stated that the only law that protects the owls in specific situations is the Migratory Bird Act. So if she does not appear before the Board and the church were to take out the trees and kills the owls she would obviously contact the Game Warden because the owls are protected raptors. So her starting point is knowing that the proposal is not allowed by right she asks if the church can wait to take out the trees for at least 60 days.

Mr. White stated that the conditions for the Special Exception the applicant is requesting is that it will be in harmony with the spirit and intent of the Code, will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Ms. Harmon stated that she wants the owls to be safe and if the trees are going to be taken out do it safely and do not hurt the owls because they are protected by federal law.

Ms. Miller stated the purpose of the Zoning Code is protecting the public health, safety and general welfare. Also, implementing Policies and Rules of the Comprehensive Plan and other relevant official adopted plans of the City, the Comprehensive Plan does talk about protecting natural habitat in the City. There is a link in looking at a factor like this situation.

**Jean McQueary**, 3711 East 36<sup>th</sup> Place, Tulsa, OK; stated she lives in the last house on 36<sup>th</sup> Place on the north side. She is the person who cannot get out of their driveway if there is curbing all along 36<sup>th</sup> Place. She is not concerned about the parking lot but she needs to have access out of her driveway.

Mr. Van De Wiele stated that the Board has heard from the applicant that they are willing to leave some sort of turn-around for her to utilize.

Mr. Medrano came forward and stated that he would like to verify "existing" so there is no confusion. Mr. Medrano stated there is a driveway that starts at the curb cut and extends all the way to and underneath the carport. There is a saw cut in the concrete that is a standard setback for the City easement and that is the proposal that the saw cut remain.

Mr. Van De Wiele added that Ms. McQueary does not have the right to use the church driveway as a turn-around though it sounds like the church is willing make an accommodation for that in their application.

**James Weigant**, 3738 South Indianapolis, Tulsa, OK; stated that he lives about three blocks from the subject property. He has lived in the neighborhood for about 3 ½ years and walked by the subject property many times. When the church was first being built he thought it was quaint and nice and appropriate. The current parking is devoid of anything natural and the size of the parking being proposed is basic with no imagination. He is surprised that a development of the proposed size in a neighborhood does not require some islands and trees incorporated. He thinks there should be something other than bare asphalt.

**Lisa Griffith**, 3603 East 36<sup>th</sup> Street, Tulsa, OK; stated her husband's family built the house they now live in 1950. Her sister-in-law lives across the street and her wooded area backs up to 37<sup>th</sup> Street and the owls started in that area. The owls have been in those trees for years. She just discovered them four years ago. Most people do not realize the owls are in their trees because they are very hidden. People do not notice them. The owls do not even go that high into the trees and people still do not notice the

owls because they look very similar to the tree bark. She has seen the owls in the trees from the Louisville to New Haven area which is under discussion.

Mr. Van De Wiele asked Ms. Griffith to clarify which trees she is referring to. Ms. Griffith stated that she has taken pictures of the owls in the trees that the church is talking about taking down and in the trees to the west. That area is where the owls hung out.

Ms. Snyder asked Ms. Griffith if she knew how long the owls live. Ms. Griffith stated the owls mate for life and they do not leave their neighborhood once they establish themselves, and she thinks they live about 18 years.

Ms. Griffith invited the Board to come to the neighborhood to see the owls so they could see for themselves what the residents are talking about. The owls are hanging out in the very area that is under discussion today, just south of 36<sup>th</sup> Street between 36<sup>th</sup> and 37<sup>th</sup> streets between Louisville and New Haven.

Mr. Bond asked Ms. Griffith if she thought the expansion of the parking lot would be in keeping with the character of the neighborhood. Ms. Griffith stated that she is not crazy about the church installing another parking lot because they have a huge parking lot as it is, and she knows that because she walks by the parking lot every night while walking her dogs. She is even more concerned about the trees and any trees being removed. The trees are a part of midtown and what everyone likes, and which is why the owls like it too. The trees keep the area cooler.

**Rebuttal:**

**Steven Medrano** came forward and stated that he would like to address three things. In regards to the landscaping, unfortunately, at this period he understands that in this process some of the documents being seen are conceptual drawings. The church is seeking the right to install the parking and have not filed the permit. The plan does not show a lot of architecture because it is not a completed drawing because there has been not approval received for the Variance. Mr. Medrano stated that he came before the Board a few years ago and received a Variance for a shed. The neighbor complained that she would be receiving all the visual impact of that shed so there was a compromise at a loss of parking spaces to move it over the two properties, and the church agreed. During that same period the church spent between \$40,000 and \$80,000 on exterior landscaping which exceeded well over \$120,000 to \$140,000 worth of improvements so the property would look more like the houses around it. The church does plan to landscape the proposed addition and the islands would match the character of the building. The church is willing, if the City approves, to leave the neighbor the approach so that they will have a good ingress and egress.

Mr. Van De Wiele stated that the church may not own that right-of-way. Mr. Medrano stated that he believes it is the City's but if the City would allow that to remain the church would afford the expense to make sure there is a turn-around there. The church will financially accommodate what the City allows them to do.

Mr. Medrano stated that a lot of the trees are in the illegal boundary of the PSO power equipment so there is trimming and/or removal that has to be done. Typically PSO will give you the option of defacing one side of the tree or take the tree off. There are several trees on the south side that will need to be addressed. One of the big trees that provided so much shade, that the neighbors all loved, fell during the last storm and took out power lines so it had to be removed before PSO would come in and re-establish power. Mr. Medrano had several pictures placed on the overhead projector showing the trees around the proposed parking lot area. Mr. Medrano stated that according to the Federal Migratory Act, according to the Act itself and speaking with Oklahoma City Wild Life Department, unfortunately for the owl it is only protected while it is nesting. Mr. Medrano stated the owl is always protected but its habitat is only protected while it is nesting. Once the owl is out of the nest the trees can be safely removed and when the owls want to nest the following year and the tree is gone they would find another tree. Mr. Medrano stated that has not been any reported nesting in the trees the church has. By law the church is allowed to cut down a tree that had an owl's nest once the babies have left the nest. Mr. Medrano stated that if the Board is using the law and following the law the church is within its rights to remove the tree, but if the Board is ruling only the Variance request and not the law then he would suggest there be a continuance to allow legal counsel from both parties could be involved.

Mr. Flanagan stated that is exactly what Mr. White suggested 45 minutes ago. Mr. Medrano agreed.

Mr. Medrano stated that if the neighbors are happy with the solution and the Board is happy with that too, then the church is square. But if the church has a burden of proof that it is not destroying a habitat then he thinks legal counsel would need to be involved.

Mr. Van De Wiele asked Mr. Medrano which island would the tree that the neighbors are so concerned about fit in, using sketch shown on page 14.11. Mr. Medrano stated that tree would not be in an island but would be in the northwest corner of the greenscape.

Mr. Van De Wiele asked Mr. Medrano if the church would accommodate the request made by Ms. Harmon by waiting 60 days to accommodate migration and nesting. Mr. Medrano answered affirmatively. Mr. Medrano stated that he spoke with the Oklahoma State Wild Life Department and they suggested that the church would be safe after the first week of June and Ms. Harmon agreed. Mr. Medrano stated that Ms. Harmon has a more intimate relationship with the owls because she is actually studying them, and in her opinion the owls are more adolescent at this point in time. Mr. Medrano stated that he would be happy to give her the 60 days.

Mr. Van De Wiele asked staff what the landscaping requirements are for the proposed parking lot. Ms. Miller stated that every tree has to be within 50 feet of every parking space. Ms. Miller stated that it is also tricky to preserve trees when there is so much pavement being added to an area though there is a certain way that can be done. Ms. Miller

stated a staff member in INCOG is a landscape architect and would be willing to work with the church.

Mr. Medrano stated that when the church erected the tall retaining wall they did not have a legal obligation to preserve the trees but they had an obligation as good neighbors to restore the trees. At great expense the church changed the design of the wall; there are no tie backs in the wall. The wall has a lip on it so that it leans on itself so the tree roots did not have to be disturbed. The church has arborists come to do the pruning and the deep root fertilization and that is the same thing that will happen with the proposed parking lot. Mr. Medrano stated that the City has also provided the church with guidelines as to how the water runoff has to be captured before it can be released into the storm drain which has been incorporated into the proposed site plan.

Mr. White asked Mr. Medrano how many spaces there were in the current proposed design of the parking lot. Mr. Medrano stated there are 44 parking spaces. Mr. White asked Mr. Medrano if he was going for maximum density. Mr. Medrano stated that in that particular design there is a standard building plan that matches the church's congregations. There are so many parking lots per number of members. Whatever the building occupancy is there is a ratio for the parking. The building has the capacity for the congregation to grow larger than the parking lot can accommodate. As a point of interest, the church did not approach the home owners for the purchase of the houses, the owners approached the church. Mr. White asked Mr. Medrano if the current parking lot available meets the Tulsa Zoning Code for the church size. Mr. Medrano stated that he is not sure. Mr. White asked Mr. Medrano if the church parking lot is full at each service. Mr. Medrano stated the church has two congregations that meet. One of the congregations does not have the membership to fill the parking lot but the other does, and that congregation also uses New Haven and fire lane along the sidewalk inside the property that is not actually marked.

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

Mr. White stated that he has too many questions and open ended issues. He still thinks there should be a discussion period by all interested parties outside the venue of this meeting. This is heading toward being an emotional issue and state or federal law in questionable. And does the church really need that much parking space to meet their requirements? Mr. White stated that he would not want to see anything damage the owls but that is not in the prevue of this Board because that is state or federal law.

Mr. Flanagan agrees with Mr. White. He believes it would be prudent that everyone gets together and they could collectively reach a decision. Mr. Flanagan stated should the church scrap the parking lot plan they still own the property and could decide to cut down every tree and still be within their rights.

Mr. Van De Wiele stated that if the Board decides to continue this case, the Board needs to provide the parties with a detailed list of the information that the Board wants or needs to see. Mr. Van De Wiele stated that he believes the Board can fit the concept of the issue with the birds within the confines of "detrimental to the public welfare" or

harmony with the neighborhood. Mr. Van De Wiele would like to see the one tree kept and have the applicant come back with a detailed site plan showing the landscaping, including the subject tree, and others. It sounds like the church is agreeable to a construction time frame as to when the trees would or would not be removed. Churches and church parking lots in the middle of neighborhoods are compatible with the Zoning Code. Mr. Van De Wiele appreciates Ms. Harmon's honesty and he thinks the Board could reach an approval but he would like to see a more detailed landscape plan incorporating as many of the mature trees as possible.

Mr. Bond stated that it sounds like there is good faith on both sides and a willingness to work together. The best chance to protect the trees is for the church to work with the community. He would like to see the good faith effort put together to work out a plan and reach a compromise that benefit everyone for years to come.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a **Special Exception** to allow a religious assembly use in the RS-3 District to permit the expansion of a parking area for an existing church (Section 55.080-D) to the Board of Adjustment meeting on July 26, 2016. The Board requests the applicant bring a detailed landscape plan to this meeting; for the following property:

**E90 S140 N165 W180 E485 BLK 10; W 90 OF S 140 OF N 165 OF W 180 OF E 485BLK 10, 36TH STREET SUBURB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**22101—Heather Earnhart**

**Action Requested:**

**Variance** to reduce the required rear (street) setback to permit construction of a swimming pool (Section 90.090-C). **LOCATION:** 2921 East 56<sup>th</sup> Place South (CD 9)

**Mr. Van De Wiele recused himself and left the meeting at 3:21 P.M.**

**Presentation:**

**Heather Earnhart**, 2929 East 56<sup>th</sup> Place, Tulsa, OK; stated she has lived there for 15 years and she purchased the house next door. She and her husband are completely renovating 2921 East 56<sup>th</sup> Place and adding a three car garage. They would also like to add a swimming pool. In December 2015 they were measuring 25 feet from the center of the street for the setback, and now the pool permit was denied because the setback is now 30 feet from the building line not the center of the street. They would like to have a diving pool and not just a wading pool.



Mr. White asked Ms. Earnhart if there were any utilities on the 56<sup>th</sup> Street side that might be a problem. Ms. Earnhart stated that she has had OKIE locate all utilities and they have been rerouted as needed for the garage, and the pool decking will start on the other side of the sewer line which misses that by 11 feet.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION of FLANAGAN**, the Board voted 4-0-1 (Bond, Flanagan, Snyder, White "aye"; no "nays"; Van De Wiele "abstaining"; none absent) to **APPROVE** the request for a Variance to reduce the required rear (street) setback to permit construction of a swimming pool (Section 90.090-C), subject to conceptual plan 15.11, Exhibit C. The setback will be from 30 feet to 11 feet. The Board determines that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

**LT 11 BLK 2, FAIRWAY ESTATES THIRD ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**Mr. Van De Wiele re-entered the meeting at 3:29 P.M.**

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## **UNFINISHED BUSINESS**

### **22074—Claude Neon Federal Signs**

#### **Action Requested:**

Variance to allow a dynamic display sign within 200 feet of the R District (Section 60.100-F). **LOCATION:** 3902 East 11<sup>th</sup> Street South **(CD 4)**

#### **Presentation:**

The applicant was not present.

#### **Interested Parties:**

There were no interested parties present.

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

None.

#### **Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **CONTINUE** the request for a Variance to allow a dynamic display sign within 200 feet of the R District (Section 60.100-F) to the Board of Adjustment meeting on July 12, 2016; for the following property:

**LTS 8 THRU 12 BLK 1, MAYO ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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## **NEW APPLICATIONS**

### **18330-A—Terry McGee**

#### **Action Requested:**

Minor Special Exception to modify of a previously approved site plan to permit a temporary building (Section 70.120-E.1.c). **LOCATION:** 1365 East 46<sup>th</sup> Street North **(CD 1)**

#### **Presentation:**

The applicant was not present. The Chair moved this item to the end of the agenda.

#### **Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bond, Flanagan, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a **Minor Special Exception** to modify of a previously approved site plan to permit a temporary building (Section 70.120-E.1.c) to the Board of Adjustment meeting on July 12, 2016; for the following property:

**W/2 SE SW SW OR LT 4 SEC 7 20 13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

\* \* \* \* \*

**OTHER BUSINESS**

**Agenda Item #16:**

Discussion, and possible vote to enter Executive Session, pursuant to the Oklahoma Open Meeting Act (Title 25 Oklahoma Statutes, Section 307.B.4) for the purpose of conducting confidential communications with the Board's attorneys, in the matter of the Appeal of Carl Barnes, BOA Case No. 21995. Tulsa County District Court Case No. CV-2016-132.

**Mr. White recused himself at 3:34 P.M.**

**Presentation:**

**Mark Swiney**, Senior Assistant Attorney for the City of Tulsa and General Counsel for the Board of Adjustment, 175 East 2<sup>nd</sup> Street, Tulsa, OK; stated all of the Board's proceedings are covered by the Oklahoma Open Meeting Act. They are required to be open to the public at all times; all discussions and all decision making is to be done in an open setting. There are a few exceptions to this requirement that all meetings are open and those are called Executive Sessions. Executive Session is a meeting that is lawfully closed to the public and the press. It can only happen in certain situations, i.e., discussion of a labor dispute. One of the cases in which the Board can have an Executive Session is when it wishes to discuss something in confidence with their attorney having to do with litigation after the attorney informs the Board that public disclosure of the conversation would severely impair the Board's ability to defend a law suit. Therefore, if the attorney's recommendation is to go into an Executive Session the Board votes to go into the Executive Session only. No action may be taken in an Executive Session. After the Board comes out of the Executive Session they vote to

take action if they wish. Mr. Swiney stated that it is his advice that the Board go into Executive Session to discuss a pending law suit.

Mr. White stated that since this Executive Session in pertaining to one particular subject, since he recused from both votes should he be involved in the Executive Session. Mr. Swiney recommended that Mr. White excuse himself from the Executive Session.

**Board Action:**

On **MOTION** of **FLANAGAN**, the Board voted 3-0-2 (Flanagan, Snyder, Van De Wiele "aye"; no "nays"; Bond, White "abstaining"; none absent) to **ENTER** into Executive Session on advice of the Board's attorney.

**Agenda Item #17:**

Leave Executive Session, and possible vote in the matter of the Appeal of Carl Barnes, BOA Case NO. 21995. Tulsa County District Court Case No. CV-2016-132.

**Board Action:**

No **MOTION** made on the matter discussed in the Executive Session.

\* \* \* \* \*

**NEW BUSINESS**

None.

\* \* \* \* \*

**BOARD MEMBER COMMENTS**

None.

\* \* \* \* \*

There being no further business, the meeting adjourned at 3:44 p.m.

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

7/12/16

\_\_\_\_\_  
Chair