

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1169
Tuesday, September 13, 2016, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Van De Wiele, Chair		Miller	Swiney, Legal
White, Vice Chair		Moye	Blank, Legal
Flanagan, Secretary		Sparger	
Back		Foster	
Bond			

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Wednesday, September 7, 2016, at 8:55 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members presently at this meeting, but Mr. Bond should be arriving shortly. When an applicant's case is called if Mr. Bond has not arrived by that time the applicant or an interested party can ask for their case to be postponed or moved to the end of the agenda at that time. Mr. Van De Wiele asked the applicants and the interested parties if they understood. The audience nodded their understanding.

MINUTES

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the August 23, 2016 Board of Adjustment meeting (No. 1168).

NEW APPLICATIONS

22129—Patrick M. Fox

Action Requested:

Special Exception to allow a medical office in the RM-2 District (Section 5.020, Table 5-2); Variance to reduce the required building setback from the abutting R zoned lots occupied by a residence (Section 5.030-B). **LOCATION:** 1715 South Peoria Avenue East **(CD 4)**

Presentation:

The applicant has requested a continuance to September 27, 2016 to allow additional time receive approval from the Preservation Commission.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for a Special Exception to allow a medical office in the RM-2 District (Section 5.020, Table 5-2); Variance to reduce the required building setback from the abutting R zoned lots occupied by a residence (Section 5.030-B) to the September 27, 2016 Board of Adjustment meeting; for the following property:

LT 14 BLK 24 & 10' VAC ALLEY; LT 13 BLK 24 & 10' VAC ALLEY, ORCUTT ADDN, City of Tulsa, Tulsa County, State of Oklahoma

UNFINISHED BUSINESS

22111—Eller & Detrich – Nathalie Schaefer

Action Requested:

Special Exception to allow Wholesale Distribution & Storage/Trucking & Transportation Terminal use in the CS District (Section 15.020, Table 15-2); Variance to permit the parking of motorized vehicles on a surface other than one consisting of a dustless all-weather surface (Section 55.090). **LOCATION:** 9502 East 21st Street South **(CD 5)**

Mr. Bond entered the meeting at 1:05 P.M.

Presentation:

Nathalie Schaefer, Eller and Detrich, 2727 East 21st Street, Tulsa, OK; stated that she represents the applicant, Lepak Trucking. There was a letter of deficiency issued after a shipping container was converted into a mobile office for the drivers and the LOD recommended a Special Exception.

Mr. Van De Wiele asked staff if the application applies to the entire area or just the shaded portion of the map on page 2.1. Ms. Schaefer stated that it applied to the entire property as the property is under one ownership, but Lepak Trucking only operates on the project area that has been highlighted on the map.

Ms. Schaefer stated that Lepak Trucking has been in the area for 27 years. The lot and the drive consist of an all-weather surface technically speaking. The lot and drive is using a ¾" gravel to keep the rock from getting stuck in the truck tire treads, and this also generates also very little dust. Lepak Trucking is a contractor for the United States Postal Service and the delivery drivers go to the postal facility, which is one block away on 91st Street, and pick up mail for delivery to smaller communities for them to distribute to the residents. Lepak picks up the mail about 3:00 A.M. and disburses the mail into the communities, returning to the subject lot at the end of the day between 4:00 P.M. and 8:00 P.M. The returning Lepak trucks bring back mail from the smaller communities, drop the mail at the postal facility and park the trucks on the subject lot overnight.

Mr. Van De Wiele asked Ms. Schaefer if there was another office other than the converted shipping container, or is it just a truck yard. Ms. Schaefer stated that it is a truck yard.

Ms. Schaefer stated that the material that is currently serving as the parking and drive area reduces any environmental impact to the surrounding area. Ms. Schaefer presented photos that were placed on the overhead projector. Immediately to the north of the subject lot is Sutherland Lumber Company's mulching and supply yard. The other neighbors in the immediate area are Oklahoma Equipment and Fiesta Pools who are in support of the subject application. Ms. Schaefer stated that she has also spoke with Tulsa Federal Credit Union and they have voiced concerns about traffic congestion on 21st Street. The subject location is uniquely positioned because there is access via 92nd Street and Skelly Drive and I-44 which minimalizes Lepak's presence on 21st Street.

Mr. Van De Wiele asked Ms. Schaefer if the 92nd Street drive is a two-way drive. Ms. Schaefer stated that 92nd Street drive is a two-way drive but Skelly Drive is only a one-way drive.

Mr. Van De Wiele asked Ms. Schaefer where the credit union is located in relation to Lepak Trucking. Ms. Schaefer stated that the credit union is located northeast of the subject property.

Ms. Schaefer stated there is no anticipated expansion of the Lepak operations or of the facility. The drive that is utilized to exit onto 92nd Street has buffers on both sides.

Ms. Back asked Ms. Schaefer what type of equipment the Lepak drivers are driving. Ms. Schaefer stated that Lepak uses 18-wheeler trucks.

Lou Reynolds, Eller and Detrich, 2727 East 21st Street, Tulsa, OK; stated that the hardship for this application is that the property is abutted by a concrete wall and mini-storage to the south, and to the north is the open yard area of Sutherland Lumber Company which is used for gravel, mulch, bedding materials, etc. This is an open air activity that has a minimum economic affect and is maintained by the ¾" gauge gravel.

Interested Parties:

Glen Ogden, 9323 East 21st Street, Tulsa, OK; stated he is Senior Vice President of Branch Operations for Tulsa Federal Credit Union. His only concern is the traffic coming from 21st Street south on 92nd Street. He has had an opportunity to visit with the parties concerned and it is apparent that many of the trucks parked on the subject lot are coming from the south out of the mail processing center on 91st Street. Mr. Ogden stated that 92nd Street is a narrow road and is a freeway on ramp which is used by many trucks. He believes that his concerns have been resolved since his discussion with the parties involved.

Comments and Questions:

Mr. Van De Wiele stated that he had worked at Fiesta Pools when he just out of high school and the facility has looked like this and operated like this forever. Most of the existing traffic would be getting out onto the highway so he does not see an issue with this application.

Board Action:

On **MOTION of WHITE**, the Board voted 5-0-0 (Back, Bond, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to allow Wholesale Distribution & Storage/Trucking & Transportation Terminal use in the CS District (Section 15.020, Table 15-2); **Variance** to permit the parking of motorized vehicles on a surface other than one consisting of a dustless all-weather surface (Section 55.090), subject to "as constructed". The Board has found that this particular property has been used in a similar manner for some time with the unpaved surface area for the large vehicle parking. The hardship for this application is that the property is abutted by a concrete wall and mini-storage to the south, and to the north is the open yard area of Sutherland Lumber Company which is used for gravel, mulch, bedding materials, etc. This is an open air activity that has a minimum economic affect and is maintained by the ¾" gauge gravel. Also, the subject lot has been a legal non-conforming use for many years. 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 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:

Tract 1: The E 300' of a tract as all part of the W/2 NE/4 NE/4 of SEC 13 19 13 E of the Indian Base and Meridan, Tulsa County, State of Oklahoma according to the U.S. Govt. Survey thereof and being more accurately described as follows, to wit: BEGINNING at the NW/c of said W/2 NE/4 NE/4; thence SE along the N boundary of the W/2 NE/4 NE/4, a distance of 572.66'; thence due S a distance of 60' to the NW/c of the FIESTA CENTER ADDITION; thence due S along the W boundary of said FIESTA CENTER ADDITION a distance of 190'; thence NW parallel to the N boundary of said W/2 NE/4 NE/4, a distance of 542.55' to a point 30' from the W boundary of said W/2 NE/4 NE/4 thence NW parallel to and 30' ft from the W boundary of said W/2 NE/4 NE/4, a distance of 200'; thence NW parallel to the N boundary of the W/2 NE/4 NE/4, a distance of 30' to the W boundary of the said W/2 NE/4 NE/4 thence NW along the W boundary of said W/2 NE/4 NE/4, distance of 50' to the POB. Tract 2: A tract BEGINNING 250' S and 30' E of the NW/c of the W/2 NE/4 NE/4; thence E 543.86' to a point in the W line of the FIESTA CENTER ADDITION; thence S along the W line of the FIESTA CENTER ADDITION, a distance of 50 ' thence W 544.13'; thence N 50' to POB in SEC 13 19 13 E of the Indian Base and Meridan, Tulsa County, State of Oklahoma according to the U.S. Govt. Survey thereof. Tract 3: LT 1 BLK 1 of the FIESTA CENTER ADDITION, an addition of the City of Tulsa, Tulsa County, OK according to the Recorded Plat 3063 LESS BEGINNING at the NE/c of LT1; thence S 183.82'; thence SW 151.09'; thence NW 284.85'; thence SE 140.50 to the POB, City of Tulsa, Tulsa County, State of Oklahoma

22123—William E. Lewis

Action Requested:

Variance of the required frontage in the IL District from 50 feet to 0 feet to permit a lot split (Section 15.030); Modification to a previously approved Special Exception to permit a second hotel on the lot. **LOCATION:** 18715 East Admiral Place North (CD 6)

Ms. Moyer stated the applicant has withdrawn his request for the Variance and requests that the Modification request for the previously approved Special Exception still be heard.

Presentation:

Bill Lewis, Lewis Engineering, 6420 South 221st East Avenue, Broken Arrow, OK; stated this request is for a second hotel in the IL District as indicated on the submitted plan.

Mr. White asked staff if this is the first case before the Board that circumventing the previous PUD concept. Ms. Miller stated that there have been a lot of things have come up this year that have gone into different types of processes because there is no PUD.

Ms. Miller asked Ms. Moyer about the existing sign for the hotel that is on the rear of the subject lot. Ms. Moyer stated the applicant understood at the previous hearing that the sign for the existing motel needs to be on the same site as the motel itself, and the applicant stated that he would have sign moved.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Back, Bond, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **APPROVE** the request for a Modification to a previously approved Special Exception, BOA-21939, to permit a second hotel on the lot, subject to conceptual plan 3.13. Taking note, that in this application today the Variance requested has been withdrawn by the applicant. Finding the proposed modifications is compatible with and non-injurious to the surrounding area and meets the previously granted Board relief or meets the zoning requirements, per code; for the following property:

LOT 1 BLOCK 1, G4 HOSPITALITY, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

22124—John Tran

Action Requested:

Verification of the spacing requirement for liquor stores of 300 feet from plasma centers, day labor hiring centers, bail bonds offices, pawn shops, and other liquor stores (Section 40.300-A). **LOCATION:** 6305 East 121st Street South **(CD 8)**

Presentation:

The applicant was not present. The Board moved this case to the end of the agenda.

22125—Nik Hooper

Action Requested:

Special Exception to permit the expansion of a non-conforming structure in the RS-3 District (Section 80.030-D); Special Exception to permit a driveway greater than 20 feet in width (Section 55.090-F.3). **LOCATION:** 2663 East 20th Street South **(CD 4)**

Mr. White recused at 1:30 P.M.

Presentation:

Nik Hooper, 1746 South St. Louis Avenue, Tulsa, OK; stated he hired a contractor to do the entire job on the subject house. Toward the end of the project Mr. Hooper asked the contractor where the permits were and discovered there were no permits. Mr. Hooper fired the contractor and now he is before the Board to make this right. The previous garage was a single car garage has been made into a two-car garage with a 24 foot driveway.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-1 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; White "abstaining"; none absent) to **APPROVE** the request for a Special Exception to permit the expansion of a non-conforming structure in the RS-3

District (Section 80.030-D); Special Exception to permit a driveway greater than 20 feet in width (Section 55.090-F.3), subject to "as built" and "as shown". 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; for the following property:

LT 12 BLK 3, GREENHOUSE FIRST ADDN RESUB PRT L7 B3 BARNARD VIEW ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. White re-entered the meeting at 1:33 P.M.

22127—J. R. Donelson

Action Requested:

Variance of the required 30 feet of frontage on a street in the RS-1 District (Section 5.030). **LOCATION:** 9828 South 74th East Avenue **(CD 8)**

Presentation:

J. R. Donelson, 12820 South Memorial Drive, Bixby, OK; stated he represents the current property owner. This request is to permit 30 foot of frontage on a public street in the RS-1 District to permit a subdivision with private streets, per Section 51030. The situation is that with the adoption of the new zoning code in January that the private street is now an issue with regards to a gated community. The owner would like to take the five acre piece of property and have a gated community with two access points which would be a private street attaching to a public street. With a private gated community and a wall along South 74th there would be no proposed lots that would have frontage along South 74th East Avenue. Therefore, with the present zoning code in place which requires a 30 foot frontage on public streets the applicant is requesting zero frontage on public streets so a gated community can be constructed.

Mr. Van De Wiele asked staff if the old zoning code had the same issue. Ms. Miller stated that the difference is that the applicant cannot do a PUD because the sub-regs only allow private streets in PUDs. This is an issue that will be addressed as the sub-regs update is being reviewed.

Mr. Van De Wiele asked Mr. Donelson if he had a rezoning request prepared to go before the Planning Commission. Mr. Donelson answered affirmatively. Mr. Van De Wiele stated that when he reviewed the conceptual site plan, all of the various single family residential zoning codes require 30 feet of frontage but they vary in lot size and lot width, and at least half of the proposed lots were to remain RS-1 zoning that would either be too narrow or not have enough area or both. Mr. Van De Wiele asked staff if the rezoning should come before today's request, because part of what the Board would be considering is how to plan on preparing and maintaining the streets. Mr. Donelson stated the applicant will be requesting RS-3 zoning, which each of the lots would fall into

RS-2 zoning because of the square footage of the lot. But because there are some proposed lots that will be 72 feet in width as opposed to 75 feet in width the applicant would request the RS-3 with all lots exceeding the RS-3 square footage. The applicant has done a similar residential subdivision on 101st Street near Mingo and that subdivision is a good fit and the applicant believes this subdivision would be a good fit. The price point for these homes will be approximately \$400,000 and the proposed division will be very similar. A large number of the houses will be custom built houses and the home owner's association will be mandatory for the private street.

Mr. Van De Wiele asked Mr. Donelson if the HOA board would have the authority to assess, place liens, etc. to take care of the street. Mr. Donelson answered affirmatively.

Mr. Donelson stated that he has had the opportunity to sit in a Predevelopment Meeting at City Hall with City of Tulsa staff with regards to utilities and individually with various members of the City of Tulsa Engineering staff to work out some of the issues in regards to water, the sanitary sewer and storm water. The subject property sits almost adjacent to a regional detention facility which on the east side of 74th East Avenue, and the City of Tulsa has already said there would be a fee in lieu of the detention. Stormwater is actually collected from Sheridan Hills South and discharges into the detention facility and the stormwater will be picked up in the same storm sewer and discharged into the existing regional detention facility.

Mr. Van De Wiele asked Mr. Donelson how the stormwater from the subject property will flow. Mr. Donelson stated that the stormwater will stay on site and flow to the north and there will be curved inlets on 74th East Avenue and 100th Street South to catch the stormwater runoff. It will be collected and placed into a storm sewer pipe and discharged into the regional detention facility that currently exists.

Interested Parties:

Devon Brandes, 9807 South 74th East Avenue, Tulsa, OK; stated he lives directly across the subject property. Mr. Brandes stated that in attendance today is every homeowner in the subject block and most are prepared to speak out against the proposed Variance. He objects to the Variance. Mr. Brandes stated the neighborhood is a quarter mile long and is a dead end street with only one arterial entrance onto 101st Street. There are ten homes in the neighborhood and all are zoned RS-1 and all lots are a minimum of one acre. There is no existing sewer. The street is not curved. There is no underground storm drainage. Mr. Brandes believes the proposed Variance breaches the criteria set forth in Section 70.130-H, subsections F and G. Ultimately this proposal will alter the unique characteristics, the established privacy and the essential character of the neighborhood. The Tulsa Comprehensive Plan states that new development and improvements in existing neighborhoods should be limited to small scale infill projects where change is expected to be minimal. This Variance will allow for a subdivision that will increase the housing density in the neighborhood by 140% and more than double the current residential population. This does not constitute a small scale infill project, enhance the essential character or represent expected minimal change as recommended by the Tulsa Comprehensive Plan. The subdivision will be

located directly in the middle of the neighborhood with no direct access to a major arterial street. This undeniably alters the unique characteristics and charm of the existing neighborhood. Gated entrances and wall perimeters of the subdivision will not enhance or maintain the character of the neighborhood, and are not consistent with nature of the one acre or more open and large lots. The proposed architecture and layout of the subdivision does not conform to current RS-1 zoning of the existing neighborhood and it does not conform to unique architectural aspects of the homes. This directly opposes the intent and spirit of the current Tulsa zoning code and is detrimental to essential character and integrity of the neighborhood. The proposed subdivision would enter and exit onto the neighborhood residential street that is only 23 feet in width which is seven feet less in width than the streets being proposed inside the subdivision. It is also substantially less in width than most other Tulsa residential streets. House and street lighting of the proposed subdivision would not be congruent with the current lighting of the existing neighborhood. The traffic on the street would more than double, with only one way in and one way out onto 101st Street. The proposed subdivision wants to double the population of the neighborhood. The subdivision gated entrance as well as the noise from the opening and closing of the gates would increase traffic noise further compromising the solitude of the neighborhood. There would also be destruction of trees and greenery in order to build the subdivision that would be in direct contrast to the mature trees and rural landscaping that is currently in place. Massive amounts of construction traffic up and down the street would be detrimental to the current state and condition of the neighborhood street. Mr. Brandes stated that it is the neighborhood's unanimous belief that the proposed Variance directly contradicts the spirit of the Tulsa Comprehensive Plan as well as provides adequate disfavor to the current property owner under Sections 70.130-H, subsections G and F of the Code. This proposal is not intended to ultimately preserve or enhance the character or quality of life that the neighborhood has maintained and that has been enjoyed for decades. It is a complete intrusion upon the privacy and sanctity that the residents currently enjoy and devastatingly unwinds the fabric and continuity of the neighborhood. The Variance being proposed is exclusively for one thing and that is for profit for the builder and his investors at the expense of the neighborhood's pride, the privacy of the neighborhood and all of those who have worked, maintained and lived in the neighborhood for decades. The average age of the homes in the neighborhood is over 30 years. Mr. Brandes stated that his Grandfather built the first house in the neighborhood in 1958 and his family has been on that street ever since. People move into the neighborhood and do not leave because of the rural feel, large lots and privacy. Inserting a subdivision in the middle of the neighborhood would completely destroy all of that. Mr. Brandes respectfully asked the Board to deny the requested Variance.

Mr. Van De Wiele stated that he believes this case should be before the Planning Commission before coming to the Board of Adjustment. Ms. Miller stated that even if the applicant decides to do a subdivision with RS-1 zoning they will still need a Variance because of the private streets.

Mr. Van De Wiele asked when the next Planning Commission meeting is scheduled. Ms. Moye stated that Mr. Donelson's case will be before the Planning Commission on October 5th.

Ms. Back asked staff if the Board were to continue with the request for RS-1 and the applicant received RS-3 would he need to come back before the Board to be granted the RS-3 zoning. Ms. Miller stated that he would not because the relief is the same because both require 30 feet of frontage.

Susan Crockett, 9909 South 74th East Avenue, Tulsa, OK; stated she lives in neighborhood that is set back in time. Ms. Crockett presented pictures of all the neighborhood houses each showing the length of time they have existed in the neighborhood. Ms. Crockett presented a map depicting all the existing houses of the neighborhood in relation to the proposed subdivision. The neighborhood is unique because it is a dead end street between Memorial and Sheridan north of 101st Street with a creek on the east and north side, an existing neighborhood on the west side, and on the south side is 101st Street. The houses are all zoned RS-1 and have one to five acres with frontages of approximately 180 feet with a setback from the road of approximately 30 feet providing a sense of country living. Allowing a Variance for a gated community in the middle of the neighborhood would substantially alter the essential character of the neighborhood. Ms. Crockett stated that stormwater would be an issue also because the subject property is higher than the existing neighborhood.

Deborah Whittaker, 9906 South 74th East Avenue, Tulsa, OK; stated that the north boundary of her property would touch the south side of the proposed subdivision. Ms. Whittaker stated that 14 houses in a walled community added to the existing neighborhood street would ruin the neighborhood integrity. Ms. Whittaker believes the proposed subdivision would be detrimental to the entire neighborhood. She believes the intent of the zoning is being challenged in the fact that some of the properties would not meet the RS-1 zoning. Mr. Whittaker asked the Board what effect would the zoning change have on the neighborhood and what is needed to make that change.

Mr. Van De Wiele stated that request is made through the Tulsa Metropolitan Area Planning Commission and it will either recommend approval or recommend denial of that change to the City Council. City Council is ultimately the one that will decide whether the area should remain RS-1 or change to RS-3. The initial TMAPC hearing will be on October 5th. Ms. Whittaker asked if the residents of the street would be notified. Ms. Miller stated that the residents within approximately 320 feet of the subject property will be notified, and those notices will go out in the next few days.

Marco Vincente Silvestre, 9805 South 74th East Avenue, Tulsa, OK; stated he is the newcomer to the neighborhood. Mr. Silvestre presented pictures of the view of the subject property from his kitchen window and the similar subdivision on 101st Street between Mingo and Garnett. His future view could be a wall with tightly spaced rooftops and he thinks that is an essential change to the neighborhood. That will be detrimental to the neighborhood. Within the gated community there is a model home showing the

typical architecture of today and wanted to know if it would fit into a neighborhood that was built in the 1950s and the 1960s. When he purchased his house he was looking for a neighborhood that had stability and would allow them to enjoy the outdoors within the city limits. The neighborhood has large lots with a sense of privacy without the need for screening walls. The proposed subdivision would permanently alter the character, the integrity and privacy of the neighborhood. There will be a wall with tightly spaced rooftops will be seen from the public streets and the adjoining properties. Stormwater management is a concern. There will be safety and privacy concerns. There will be traffic concerns with the proposed new 14 houses that each will probably have two or three cars.

David Barnard, 9696 South 74th East Avenue, Tulsa, OK; stated he has lived in the neighborhood for 43 years and his house is north of the subject property. Earlier this summer he was contacted by the applicant's agent regarding an easement across his property for a sewer line to serve the proposed development. He and his wife are opposed to this development for the reasons that have been so well stated, and he turned down the easement request. He would like to know about the plans that are proposed in regards to the sewer.

Rebuttal:

Mr. J. R. Donelson came forward and stated that the things that were stated by the residents of the neighborhood are the same things that drew the property owner to the neighborhood when the property went on the market. With regards to the sanitary sewer after Mr. Barnard was contacted and he refused, the applicant revisited with the City of Tulsa Water Department and it was suggested the sewer be placed in the city right-of-way, cross the street and run down the side of the street where the detention facility is located. The City of Tulsa Water Department designed the system so the sewer line would not be intrusive on anyone's property. In regards to the PUD, if this case were to be heard this time last year he would not be standing before the Board. But because of the new zoning change and the owner's desire for private streets is the reason for the Variance request. He met with staff before going to pre-development and in working with staff these are the steps that were recommended. That is the reason this case is before the Board of Adjustment before going before the TMAPC Board for rezoning, understanding that all property owners would have the opportunity to express their concerns at the TMAPC and the Board of Adjustment. Today, based on the current zoning code and the fact there is no PUD application as there would have been last year is the reason for the Variance request.

Mr. Van De Wiele asked Mr. Donelson to explain his hardship for this case. Mr. Donelson stated the hardship is that the property owner see is as a PUD concept allowing private streets, which was in effect last year, and is no longer in effect. The hardship would be to take a design where there are private streets with lots that back up to a public street allowing a limited access for all the lots. Under the old PUD process this would have been a typical PUD application with a typical PUD site plan for the lots. With the new zoning code in place, until it is tweaked, it is like an applicant is treading

on new ground so this is a hardship to the process and the fact that there is no access to 74th East Avenue.

Comments and Questions:

Mr. Flanagan believes the hardship is self imposed. The Board hears the statement, "if it weren't for the new zoning changes..." is like saying if the speed limit had not been changed I would not have been pulled over. The entire neighborhood is in attendance today and if it were him he would be very irate about this. He cannot support this request.

Mr. Bond agreed with Mr. Flanagan. He thinks the facts that have been heard from the applicant is that he has issue of doing this project this year versus last year speaks of the intent of the City by passing a new zoning code. He cannot support this request.

Ms. Back stated that as a Planner she is always concerned about the buildable lands inventory, and if the City keeps losing their larger lot zoned property it will go against what previous planners have established as would be good for the area. Ms. Back stated that she listened to the neighborhood and she is having a hard time with the application because of the hardship.

Mr. White stated that he cannot this application as it is presented. He believes that TMAPC needs to have their opportunity to face the issues. In recognition in the fact that there is a new zoning code, he personally, would deny this application without prejudice. If the Planning Commission did rezone the subject property then this Board could rehear the case under that umbrella and that would be a different concept.

Ms. Back stated that she believes the City of Tulsa spent a lot of money on rewriting the Code and there things that need to be worked out, but she also believes that the Board of Adjustment is in place to protect the integrity of the Code.

Mr. Van De Wiele stated that when he first reviewed this case, going back to his previous comment, every one of the single family residential zoning designations requires no more than 30 feet of frontage. The fact that there is 180 feet on average is great and from that standpoint if someone wanted to come in cut the subject property into 30 foot wide lots all the way down 74th East Avenue there would not be a lot that could be done about it. His bigger concern is all the things that the Board would have to find the Variance would not alter essential character of the neighborhood and he has hard time seeing how this would not do that. What he does not want to happen is the Board's decision to trump the Planning Commission. Mr. Van De Wiele stated that he does not see how this request would not alter the essential character of the neighborhood and cannot support this request.

Mr. Van De Wiele stated that the applicant needs to wait to see what happens at the Planning Commission meeting and the City Council meeting, if it goes that far. It sounds like some of the neighbors have contacted their City Councilor and he does not know what staff is going to recommend to the Planning Commission or what the

Planning Commission will recommend to the City Council. If the applicant is successful in rezoning the subject property to RS-3 then he will have a chance to come back before the Board to request the relief again.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 5-0-0 (Back, Bond, Flanagan, Van De Wiele, White “aye”; no “nays”; no “abstentions”; none absent) to **DENY** the request for a **Variance** of the required 30 feet of frontage on a public street in the RS-1 District to permit a gated community with private streets (Section 5.030); for the following property:

W/2 NW SW SE SEC 23 18 13 5.01 AC, City of Tulsa, Tulsa County, State of Oklahoma

22128—Encinos 3D Custom Products and Signs

Action Requested:

Variance to allow a dynamic display sign within 200 feet of an R District (Section 60.100). **LOCATION:** 3 East 18th Street South **(CD 4)**

Presentation:

Christian Ortiz, 9810 East 58th Street, Tulsa, OK; no formal presentation was given but the applicant was available for any questions.

Mr. Van De Wiele asked Mr. Ortiz if the application was for a new sign. Mr. Ortiz answered affirmatively.

Mr. Ortiz stated that the sign will be within 72 feet of a residential zone which is actually consumed by Veterans Park. The sign will be programmed to be shut down at sunset and the sign will have ambient lighting which adjusts the brightness automatically to the outside conditions. The sign sits at an angle so it can be viewed from both Main Street and 18th Street.

Mr. Van De Wiele asked Mr. Ortiz if the sign was one sided. Mr. Ortiz stated the sign is two sided and the dynamic display will be on both sides.

Mr. Van De Wiele asked staff if there were any issues in regards to the sign being near a signalized intersection. Ms. Moye stated that there is no issue with that in this case.

Mr. Bond asked staff if there were any ordinances pertaining to the distance from a memorial to the combat killed. Ms. Miller stated there were none in the Tulsa zoning code.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that the fact that the residential zoning is not a residential use it would certainly seem like that would serve as the hardship.

Mr. Bond stated that he has issue with the fact that is adjacent to Veterans Park it is also adjacent to the most hallowed portion of Veterans Park. It is not simply that the lights will go off at 5:00 P.M., it is an issue of that particular area being used for Veteran's Day and Memorial Day and the Fourth of July when the citizens of Tulsa want to go to the park to remember their war dead. He does not think this is an appropriate place for a dynamic display sign.

Ms. Back stated that she agrees with Mr. Bond but she asks Mr. Bond if he would entertain the hours of operation being shortened. Mr. Bond stated that for a lot of people every day is Memorial Day so he could not agree.

Mr. White stated he understands Mr. Bonds stand on the application but he questions how much public participation there is on an ongoing basis to the point that the sign would be a detriment to their activities.

Board Action:

On **MOTION of WHITE**, the Board voted 4-1-0 (Back, Flanagan, Van De Wiele, White "aye"; Bond "nay"; no "abstentions"; none absent) to **APPROVE** the request for a **Variance** to allow a dynamic display sign within 200 feet of an R District (Section 60.100), subject to per plans 7.7 and 7.8. The dynamic display sign is to be turned off and not operate on Memorial Day and Veteran's Day and is to comply with all other zoning code requirements. 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:

LTS 5 6 BLK 1, YEAGER ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22130—Wallace Engineering – Jim Beach

Action Requested:

Special Exception to allow a 6 foot fence in the required front setback (Section 45.080-A). **LOCATION:** 3218 South 79th Avenue East **(CD 5)**

Ms. Back recused and left the meeting at 2:26 P.M.

Presentation:

Jim Beach, Wallace Engineering, 200 East Brady Street, Tulsa, OK; stated the proposal is to erect a six foot tall Ameristar style steel fence to provide security for the employee parking lot. The fence will attach on the west end and be in line with an existing fence and extend to the corner of the building then north to connect with the corner of the building. Mr. Beach presented photos of the existing six foot tall fence and the area where the fence is proposed to be. The installation of the proposed fence is consistent with the streetscape of the area.

Interested Parties:

Lee Simpson, CEO of Post Acute Medical Specialty Hospital, 3219 South 79th East Avenue, Tulsa, OK; stated he believes that his questions have been answered in Mr. Beach's presentation. His concern was consistency in the view and design of the fence. He has no opposition to the fence.

Comments and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Bond, Flanagan, Van De Wiele, White "aye"; no "nays"; Back "abstaining"; none absent) to **APPROVE** the request for a Special Exception to allow a 6 foot fence in the required front setback (Section 45.080-A), subject to per plans 9.10 and 9.11. 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; for the following property:

PRT LT 3 INTERCHANGE PL & PRT LT 3 BEG 1463.24W & 915.74S NEC SEC TH SE261.9 SW311.23 CRV LF87.54 NW291.93 NE244 NELY101.98 NE54 POB & BEG 1364.39W & 831.72S NEC SEC TH SE261.9 SW130 NW261.9 NE130 POB, INTERCHANGE CTR, INTERCHANGE PLACE, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Back Re-entered the meeting at 2:31 P.M.

22124—John Tran

Action Requested:

Verification of the spacing requirement for liquor stores of 300 feet from plasma centers, day labor hiring centers, bail bonds offices, pawn shops, and other liquor stores (Section 40.300-A). **LOCATION:** 6305 East 121st Street South **(CD 8)**

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 (Back, Bond, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we accept the applicant's verification of spacing for the proposed liquor store subject to the action of the Board being void should another liquor store or other conflicting use be established prior to the establishment of this liquor store; for the following property:

PRT LT 1 BEG 201.08N & 196E SWC LT 1 TH E404.97 S40.99 SW143.75 SW17.37 W28.57 SW29.01 W322.52 N201.08 POB BLK 1, CRESTWOOD VILLAGE, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 2:32 p.m.

Date approved: _____

9/27/16
[Signature]
Chair