

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1186
Tuesday, June 27, 2017, 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 White, Vice Chair Flanagan, Secretary Back	Bond	Miller Moye Sparger Ulmer	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on Thursday, June 22, 2017, at 10:46 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.

MINUTES

On **MOTION** of **FLANAGAN**, 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 June 13, 2017 Board of Adjustment meeting (No. 1185).

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present at this meeting. Mr. Bond is absent today for military guard service. If an applicant or an interested party would like to postpone his or her hearing until the next meeting he or she could do so. Though typically the summer months are more susceptible to absences so if anyone has a request for a continuance they may certainly do so, but personally barring anything out of the ordinary he does not think he would entertain or support a request. If the applicant wanted to proceed with the hearing today it would be necessary for him to receive an affirmative vote from three

board members to constitute a majority and if two board members voted no today the application would be denied. Mr. Van De Wiele asked the applicants and the interested parties if they understood and asked the applicants or interested parties what they would like to do. The audience nodded their understanding and no one requested a continuance.

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NEW APPLICATIONS

22260—Donna Emmons

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 feet from another outdoor advertising sign on the same side of the highway (Section 60.080-F.5); Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 feet from any other digital outdoor advertising sign facing the same traveled way (Section 60.100). **LOCATION:** 10718 East Marshall Street South (CD 3)

Presentation:

The applicant has requested a continuance to the July 11, 2017 Board of Adjustment meeting due to a scheduling conflict.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, 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 Verification of the spacing requirement for an outdoor advertising sign of 1,200 feet from another outdoor advertising sign on the same side of the highway (Section 60.080-F.5); Verification of the spacing requirement for a digital outdoor advertising sign of 1,200 feet from any other digital outdoor advertising sign facing the same traveled way (Section 60.100) to the July 11, 2017 Board of Adjustment hearing; for the following property:

LT 1 & PRT VAC E INDEPENDENCE ST N BEG SWC LT 1 TH E546.45 CRV LF47.05 S59.93 W581.90 N30.52 POB ADJ ON S BLK 1, INTERCHANGE BUSINESS PARK, THE, City of Tulsa, Tulsa County, State of Oklahoma

22265—Lemuel Adams

Action Requested:

Variance to permit two ground signs on a R zoned lot (Section 60.050-B); Variance to allow two ground signs to be separated by less than 30 feet (Section 60.040-B); Variance to allow a dynamic display sign that is 36 square feet in size; Special Exception to permit a dynamic display on a R zoned lot (Section 60.050-B). LOCATION: S of the SW/c of East 7th Street South and South Garnett Road East (CD 3)

Presentation:

The applicant is out of town and requests a continuance to the July 11, 2017 Board of Adjustment meeting.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, 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 Variance to permit two ground signs on a R zoned lot (Section 60.050-B); Variance to allow two ground signs to be separated by less than 30 feet (Section 60.040-B); Variance to allow a dynamic display sign that is 36 square feet in size; Special Exception to permit a dynamic display on a R zoned lot (Section 60.050-B) to the July 11, 2017 Board of Adjustment hearing; for the following property:

**LTS 1 & 2 LESS E162 LT 1 & LESS E15 LT 2 BLK 2,EAST ELEVENTH PARK SUB,
City of Tulsa, Tulsa County, State of Oklahoma**

UNFINISHED BUSINESS

22222—A-Max Sign Company – Lori Worthington

Action Requested:

Special Exception to permit a dynamic display in the RS-2 District; Variance of the allowable display surface area for freestanding signs in the RS-2 District (Section 60.050). LOCATION: 5590 South Lewis Avenue East (CD 9)

Presentation:

Hugh Keen, 8923 South 48th West Avenue, Tulsa, OK; stated this is to replace the old outdated existing sign at Southern Hills. Southern Hills does a lot of good in the community and the ministry is very interested in growing the outreach work. The best way to do that is with advertising and a dynamic display sign will be a great vehicle to accomplish that.

Mr. Van De Wiele asked Mr. Keen if the sign is double sided and if the display sides faced north and south. Mr. Keen answered affirmatively.

Mr. Van De Wiele asked Ms. Moyer about what is allowed in regards to the size. Ms. Moyer stated the square footage for the sign allowed along South Lewis Avenue there is a total of 71.56 square feet allowed, and the sign proposed is 56.25 square feet total so it does meet the signage allowed for the lot. Mr. Van De Wiele asked if the Variance is needed. Ms. Moyer stated that the Variance is not needed and the applicant can withdraw the request if they would like to do so.

Mr. Van De Wiele asked Mr. Keen if he would like to withdraw his request for the Variance that was advertised. Mr. Keen stated that he would like to withdraw the Variance request.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to permit a dynamic display in the RS-2 District, subject to conceptual plans 2.13 and 2.14 in the agenda packet. The applicant has withdrawn the Variance request as it is not needed. The Board finds 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 NE SE BEG NEC SE TH W408 S50 W100 N50 W100 S358 E608 N358 POB LESS E50 THEREOF FOR ST SEC 31 19 13 4.47ACS, City of Tulsa, Tulsa County, State of Oklahoma

22248—Crown Neon Signs – Gary Haynes

Action Requested:

Special Exception to permit a dynamic display for a church in the RS-2 District (Section 60.050). **LOCATION:** 5603 South New Haven Avenue East (**CD 9**)

Presentation:

Gary Haynes, Crown Neon Signs, 5676 South 107th East Avenue, Tulsa, OK; stated a couple of weeks ago the Board asked the church to go to the neighborhood to see if a compromise could be reached. The church did reach out to the neighborhood by sending out over a 100 invitations and five or six residents attended the meeting. Five of the residents were not in support of the proposed sign while one resident supported the request. The church has proposed operating hours for the sign and there is a new drawing with a few modifications to make it look similar to the existing sign.

Interested Parties:

Mary Rebecca Hutchens, 5649 South New Haven Avenue, Tulsa, OK; stated her house is directly behind the church parking lot. Two weeks ago she attended the Board of Adjustment meeting and spoke about her concerns with the LED sign. The Board had concerns about the placement of the sign and delayed action on the request. Last Monday morning her friend who is a member of the church helped distribute flyers announcing a neighborhood meeting the following evening. The meeting was not well attended because people had plans that could not be changed on such short notice, and she had to change her plans in order to attend that meeting. The lady who lives directly across the street from the church to the west, who will be most affected by the lighted LED sign, and was interviewed by KOTV News On 6 was unable to attend the meeting because she never received a notice and could not change her plans when she did find out about the meeting. During the meeting concerns were discussed about the distraction an LED sign will cause at an intersection that is already busy and only has stop signs on New Haven Avenue. People think the sign will not fit into the neighborhood or in front of the beautiful colonial style church. There was also discussion about the Fleet Feet runners that wear black clothing and run in the street while running two or three side by side and the distraction the LED sign could cause. Everyone at the meeting understood why the church wants to update the sign but they thought there are other computerized signs that would be in keeping with the style of the church, and the sign that is in front of First Presbyterian Church downtown was given as an example. The church calls itself the neighborhood church and she is not the only church neighbor who feels it is not very neighborly to place a LED sign in the front yard that will shine brightly into people's houses or drive through the neighborhood. Ms. Hutchens requests the Board deny the application and suggests Crown Neon Signs goes back to the drawing board and design a sign that is more acceptable to the neighbors.

Susan Harris, 8259 South Sandusky Avenue, Tulsa, OK; stated she is the lay leader of the church. Since the neighborhood meeting the church has asked the sign company to look at a frame that will be similar to the one that exists. The stop signs and the Fleet Feet runners are out of the church's control. She thinks that by having more light on the corner might make it easier to see the runners. Ms. Harris stated the church does want to be a good neighbor and asks for the Board's approval.

Stephen Merrick, 880083 South Carey Lane, Chandler, OK; stated he is the music minister at the church, and the pastor could not attend today's meeting because of another meeting in Oklahoma City. The church is there for the community and actually started the community. The church has been supporting and giving back to the community for 50 years. The sign will help the community more than it hurts it, and the church wants to use it not only for the church but as a billboard for the community.

Rebuttal:

Gary Haynes came forward and stated the church is willing to do whatever they need to do to get the request approved.

Comments and Questions:

Mr. Flanagan stated that he is not in support of the request because it is not in the spirit and harmony of the Code and believes it will be injurious to the neighborhood.

Mr. White and Mr. Van De Wiele are both glad to see that the church decided to keep certain elements of the sign, i.e., the scrolling on the sign. They are both glad to hear that the church worked at the sign limitations which are clarified in the document they provided.

Ms. Back stated that she understands the neighborhood's concern but she does believe the church has gone beyond their means to reach out an olive branch to the neighborhood. She tends to lean toward supporting the request with the time limitations presented.

Board Action:

On **MOTION** of **BACK**, the Board voted 3-1-0 (Back, Van De Wiele, White "aye"; Flanagan "nay"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to permit a dynamic display for a church in the RS-2 District (Section 60.050), per the exhibit submitted today and dated June 20, 2017. The church proposes a dynamic display sign be dimmed to minimal levels after dark and turned on and off as follows: 1) during the months of October through February, the sign will be turned on no earlier than 7:00 A.M. and turned off no later than 7:00 P.M., except as noted in paragraph #3. 2) during the months of March through September, the sign will be turned on no earlier than 7:00 A.M. and turned off no later than 8:00 P.M., except as noted in paragraph #3. 3) exceptions are limited to these occasions and times: a) on Ash Wednesday, the sign may stay on 30 minutes after church services begin but in no event later than 7:30 P.M., b) during Holy Week (Palm Sunday through Easter Sunday) the sign may stay on 30 minutes after church services begin but in no event later than 7:30 P.M., c) on Sundays in December, the sign may stay on until 7:30 P.M. for Advent program notices, d) on Christmas Eve, the sign may stay on until 8:00 P.M., e) the sign may stay on until 7:30 P.M. for up to four (4) more special events per year. The Board finds 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:

BEG NE COR NE NE SW TH S 460.01 W 317.53 N 460.01 E 317.56 TO BEG SEC 33
19 13, HOLLIDAY HILLS ADDN B21-29, LOU NORTH WOODLAND ACRES 4TH
ADDN, RUSTIC HILLS 2ND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

22254—A-Max Sign Company – Lori Worthington

Action Requested:

Variance to permit two freestanding dynamic display signs on the lot (Section 60.080-E); Variance to allow a dynamic display ground sign within 20 feet of the driving surface of a street (Section 60.100-E). **LOCATION:** 522 West 3rd Street South (CD 4)

Presentation:

Brian Ward, A-Max Sign Company, 9520 East 55th Place, Tulsa, OK; stated the application is being made on behalf of Tulsa Parking Authority. This sign is a ground mount sign and is located between the old City Hall building and the parking structure to the west with the frontage being Frisco Avenue. The sign meets all the requirements of the City Code except for the setback and the second sign on the subject property in the CBD District.

Mr. Van De Wiele asked Mr. Ward where the second sign is located. Mr. Ward stated the second sign is located at the 1st Street entrance to the parking garage, and that sign has been issued a permit.

Mr. Van De Wiele asked Mr. Ward if the sign was for directing visitors and Tulsans into the parking facility for events and other venues. Mr. Ward answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to permit two freestanding dynamic display signs on the lot (Section 60.080-E); Variance to allow a dynamic display ground sign within 20 feet of the driving surface of a street (Section 60.100-E), subject to conceptual plans 4.15 and 4.14 for the general location. The hardship is to direct visitors into the parking facility. The Board finds that the following facts, favorable to the property owner, have been established:

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

ALL BLKS 125 & 126 & ALL 20 VAC ALLEY ADJ LTS 1 THRU 6 BLKS 125 & 126 & 80 VAC GUTHRIE ST ADJ BLKS 125 & 126 & N40 VAC ST BEG SECR LT 3 BLK 125 TH SE40 SW680 NW40 NE680 POB BLKS 125 & 126, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

22259—Jim Thomas

Action Requested:

Special Exception to allow a non-conforming detached accessory building to be reconstructed with a 1 foot side yard setback (Section 80.030-E). **LOCATION:** 2631 East 14th Street South **(CD 4)**

Presentation:

Jim Thomas, 13823 North 77th Street West, Skiatook, OK; stated the application is to replace the deteriorated garage that was built in the 1920s or 1930s. The new garage will be built in the same footprint of the existing garage. There will be no new footings installed but the stem walls will be repaired. The garage will be a frame building with architectural shingles and lap siding. There will be a four inch overhang on the garage to keep the water off the building.

Interested Parties:

Andrea Fitzgerald, 2627 East 14th Street, Tulsa, OK; stated she lives on the west side of the subject property and the subject garage is on her property line as it is now. The request is for a one foot side yard and her fence butts up to the garage, and the garage replaces about a third of her fence. If the garage is moved back a foot she does not see

the point in it. Ms. Fitzgerald stated that she would be perfectly happy to allow the applicant to build on the existing footprint.

Mr. Van De Wiele stated the applicant has stated that he will be building on the same footprint. Ms. Fitzgerald stated that the notice states "a one foot side yard setback". The garage is in a historic neighborhood and the applicant's driveway is on her property. Ms. Fitzgerald stated she is fine with where the garage and driveway are now, she does not want them set back one foot.

Mr. Van De Wiele stated the survey is not showing the garage as being on the property line; it is showing that it is approximately .8 feet away from the property line. Ms. Fitzgerald stated the survey the Board is reviewing is actually her survey because the site plan the applicant presented was so poorly done. Mr. Van De Wiele apologized.

Ms. Fitzgerald stated that when she purchased the house nine years ago that the applicant's driveway was on her property and that his garage was part of her fence line. She is fine with that situation she just does not want it changed. Ms. Fitzgerald asked if the garage could be grandfathered in back to where it was in 1929. Mr. Van De Wiele stated that the applicant is not asking to move the footprint of the garage. Ms. Fitzgerald asked why the request states "with a one foot side yard"; doesn't that mean he wants to move the garage over a foot? Mr. Van De Wiele stated that the applicant does not want to move the garage over but wants to rebuild it in the exact same location.

Ms. Fitzgerald asked the Board to explain the term "one foot side yard". Ms. Miller stated the applicant is required to have a three foot setback in the side yard so he is asking to reduce that down to one foot. The applicant is starting at three feet and asking to adjust it to one foot.

Rebuttal:

Jim Thomas came forward and stated he will repair and use the existing stem wall of the garage and the garage will be the same size and in the same place as the old garage.

Richard Fitzgerald, 2627 East 14th Street, Tulsa, OK; stated the existing garage constitutes part of the fence and during construction he would like to have a temporary fence erected while the new garage is under construction because he has a small dog.

Mr. Van De Wiele asked Mr. Thomas about his plans for the gap in the fencing during the construction process. Mr. Thomas stated that he has six foot fence sections of a chain link fence that he will erect during construction.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to allow a non-conforming detached accessory building to be reconstructed with a 1 foot side yard setback (Section 80.030-E). The structure will be rebuilt on the same footprint with repaired stem walls. The applicant will provide six foot fence sections during the construction to keep the neighbor's dog in their yard and still allow construction. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT-20-BLK-2, HURST'S RESUB B5 FAIR ACRES ADDN, FAIR ACRES ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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OTHER BUSINESS

REFUND REQUEST:

22259— Jim Thomas

Special Exception to allow a non-conforming detached accessory building to be reconstructed with a 1 foot side yard setback (Section 80.030-E). **LOCATION:** 2631 East 14th Street South (CD 4)

Presentation:

The applicant was charged for a sign that was not needed and requests a refund of \$125.00.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a refund of \$125.00; for the following property:

LT-20-BLK-2, HURST'S RESUB B5 FAIR ACRES ADDN, FAIR ACRES ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

22261—Mark D. Lyons

Action Requested:

Appeal of an Administrative Official's decision to classify the use of the property as a Bed & Breakfast under Section 35.050-G.1, 2. **LOCATION:** 2409 East 31st Street South (CD 4)

Presentation:

Mark Lyons, Attorney, 616 South Main Street, Tulsa, OK; stated this is an appeal of the neighborhood inspector Tim Cartner citing the owners for the property being a bed and breakfast or a hotel/motel. Mr. Lyons stated he is not asking for a Special Exception to make the property into a bed and breakfast. That has never been the request.

Mr. Van De Wiele had Ms. Moyer place page 7.24 on the overhead projector which is a letter from Mr. Lyons to the Board of Adjustment. Mr. Van De Wiele stated that in the last paragraph of the letter it appeared to him to be an attempt to do exactly that. Mr. Van De Wiele read the last paragraph of the letter and stated the case is not noticed for a Special Exception, and he asked Mr. Lyons to confirm that he was not before the Board to ask for a Special Exception. Mr. Lyons answered affirmatively and if he created any confusion he will withdraw the Special Exception.

Mr. Lyons stated the subject property is on the northeast corner of 31st and Lewis is about 1 ½ acres or 2 acres. The house has been there for many years with eight to ten foot walls all the way around it. The previous owner lived there for many years and collected cars and he sold the subject property to his client who has spent a great deal of time, money, energy and effort into refurbishing the property to make it more beautiful and beneficial to the neighborhood. There are two gated entrances, one on 31st Street and one on Lewis. With the subject property being on the corner of 31st and Lewis there is obviously not going to be any curbside parking. Within the walls there is room for 25 cars to park on a concrete surface. The house is approximately 7,300 square feet with a second floor that will prevent, along with the walls, any noise, any commotion whatever from the pool, on the south side of the house, being dispersed out into the neighborhood. Mr. Lyons stated that he has read the complaints from the neighbors and he believes they are misunderstanding what is going on because there were complaints about parties, late night activity, and people being on the property. Mr. Lyons believes that is not an issue the Board of Adjustment is going to deal with. Anyone in the area can have as many parties as late at night as they want just like his clients can. Mr. Lyons stated the complaints, as he understands them, is against having the subject house made into a bed and breakfast and that is not what is happening. There have been charity parties there and there was parking in the neighborhood but it was not a for profit event.

Mr. Van De Wiele asked Mr. Lyons if his client received any payment for the events. Mr. Lyons stated they did not receive any payments.

Mr. Van De Wiele asked Mr. Lyons if the last person to have an event at the subject house was a friend or relative. Mr. Lyons stated the little girl is a friend of the family. Mr. Van De Wiele asked Mr. Lyons if any payment was received for this. Mr. Lyons stated there was no payment received. Mr. Lyons stated there has been no payment received for anything. There was no money received even for a reception after a wedding reception because there was a friendship relationship. Everything has been done out of the generosity of his clients. Mr. Lyons stated there are no paid events going on.

Mr. Flanagan asked Mr. Lyons if that was now or in the future. Mr. Flanagan asked again if there were going to be any paid events in the future, yes or no. Mr. Lyons stated it is not that easy. Mr. Lyons stated that when the citation was received he contacted the City Attorney's office and spoke to Mr. Bob Edmiston and asked for an explanation of the citation. Mr. Lyons asked Mr. Edmiston if there were any regulations if his clients would want to do anything in the future, i.e., host a party. Mr. Lyons stated that after that conversation he was under the impression that there are no rules or regulations for short term rental. Mr. Van De Wiele stated that is incorrect. Mr. Lyons stated there are hundreds of vacation rentals by owners all over the City that are apparently happening, and they are published every day.

Mr. Flanagan asked Mr. Lyons if the house is owner occupied. Mr. Lyons answered affirmatively.

Mr. Van De Wiele asked Mr. Lyons who lived in the subject house. Mr. Lyons stated that Martha Blackburn lives in the house. Mr. Van De Wiele asked Mr. Lyons if anyone else lived in the house. Mr. Lyons answered no but that Ms. Blackburn's sister does come in from Michigan and the sister is a co-owner. Mr. Van De Wiele stated that when his sister-in-law comes in from out of town and stays with him she does not own part of his house, so this seems more like a business than a family residence. Mr. Van De Wiele asked Mr. Lyons why the sister owned part of the house. Mr. Lyons stated that a limited liability company owns the house and the sisters are the owners of the limited liability company. Mr. Van De Wiele asked Mr. Lyons if the full time resident was Ms. Blackburn and Ms. Blackburn only. Mr. Lyons answered affirmatively. Mr. Van De Wiele asked Mr. Lyons if anyone else staying at the house were friends of family or family members. Mr. Lyons answered affirmatively.

Mr. Van De Wiele asked Mr. Lyons why is the subject property advertised as White Lion Villa on Airbnb, Bed and Breakfast, and other short term rental sites on line if no one has paid to have a party or paid to spend the night in the house. Mr. Lyons stated it is because it was taken down the day after the citation was received. Mr. Van De Wiele asked Mr. Lyons if the property had been used as that in the past. Mr. Lyons answered no but it was advertised. There was one listing that was cancelled. Mr. Van De Wiele asked Mr. Lyons to confirm that what the Board is hearing is that the subject property

has been advertised for use as a short term rental, whether it be a bed and breakfast or otherwise, on one or more sites like Airbnb but nobody has ever paid Ms. Blackburn or Twisted Sister, LLC to stay the night or to have an event there. Mr. Lyons answered that is correct. Mr. Lyons stated the citation was issued May 11th and his client had the property only listed on Home Away and the listing was taken down on May 12th. Mr. Lyons stated that websites will pick up listings from other websites and place the listing on their website, but the only place his client put up a listing was on Home Away.

Mr. Lyons stated that what he is here today for is to appeal the determination by the neighborhood inspector Tim Cartner that the subject property was being operated illegally as a bed and breakfast or as a hotel/motel. The owners want to comply with whatever City rules and regulations there are regarding short term rental.

Mr. Van De Wiele stated if the property is a short term rental, 30 days or less, the only usage of the property as an approved bed and breakfast the owner must appear before the Board of Adjustment to receive approval of a Special Exception via application through INCOG. In the future, if there is a desire to list the subject property as a short term rental, 30 days or less, the owner must come before the Board of Adjustment for a Special Exception. Mr. Lyons stated he has personal knowledge of many, many houses being used as short term rentals without being classified as a bed and breakfast, so he will seek clarification from someone in the City Attorney's office about how that is accomplished and what the rules and parameters are for dealing with that. Mr. Van De Wiele informed Mr. Lyons that he may also reach out to INCOG and they will be able to help with that as well.

Interested Parties:

Traci Jenkins, City of Tulsa, Neighborhood Investigations, 175 East 2nd Street, Tulsa, OK; stated on May 10, 2017 the department received a complaint of a private party rental, hotel, or bed and breakfast type activity being operated out of the subject residential structure without Board of Adjustment approval under the name of White Lion Villa. On May 10th an inspector went to the property and found a regular residential occupied structure. The department performed internet research in regards to the subject property and found multiple websites to include BRBO.com, HomeAway.com, and Facebook. The property was listed as the White Lion Villa, a privately gated retreat with four bedrooms, 5 ½ bathrooms, and sleeps 14. The sites also revealed customer reviews of their stay as current as April 2017. A review of INCOG records revealed no previous Board of Adjustment actions. Ms. Jenkins quoted the zoning code describing lodging use as providing temporary lodging for less than 30 days where rents are charged by the day or by the week. Ms. Jenkins stated a notice was generated for the property owner, mailed to the property and posted to the property.

Mr. Van De Wiele asked Ms. Jenkins if she could tell what type of use the White Lion Villa had been used for when she was looking at the customer reviews on line. Ms. Jenkins stated that one site stated it was a vacation home for a perfect a place for a get together of old friends, with a beautiful building, a pool and patio areas that are peaceful

and comfortable. Another site stated a girls weekend 2017, and quoted "I joined the girls Friday night; fabulous location for a high school mini-reunion".

Mr. Van De Wiele asked Ms. Jenkins if either of those two reviews fit into the charity party for the outside world or an 11 year old girl's party or a wedding reception. Ms. Jenkins answered no.

Kathy and Brad Murphy, 2408 East 30th Street, Tulsa, OK; stated she lives directly north of the subject property and have lived there for 15 years. She and her husband do not want the zoning changed. The subject property needs to stay as a single family residential home as it has been. Events that have been held have had parking up and down the street on both sides and neighborhood resident can barely get through, certainly not an ambulance. The websites that they have advertised on encourage the owners to rent out to anyone so who knows who is renting the property. There are children in the neighborhood. Ms. Murphy stated that everyone likes the safe neighborhood.

Mr. Van De Wiele asked Ms. Murphy how many events or how frequently has she experienced the events. Ms. Murphy stated that only the larger events affect the parking and the ones that go late into the night, so she can think of three different times.

Robert Getchell, 1100 OneOk Plaza, 100 West 5th Street, Tulsa, OK; stated he represents Mr. William Warren. Mr. Getchell stated that there is a YouTube video that advertises the White Lion Villa for rent, reunions, banquets, and that it is open to be rented. The subject property is still listed on some of the sites the Code Enforcement Officer spoke about. Mr. Getchell stated that in Mr. Lyons letter he says that this is not an establishment as defined in the regulations and he begs to differ with that. An establishment is a place of business or residence with furnishings and staff and that is exactly what the subject property is. He understands the owner lives there but the owner is also trying to monetize the property. Mr. Getchell stated that he found the advertisement for an after school party in August, and several photographs which indicate birthday parties, at least one wedding, and other events that have taken place at the subject property. If these were all free events then this family has more friends and family than all the rest of the audience combined. Mr. Getchell believes if the owner went forward in any manner in respect to what the Board has already discussed it would be a violation.

Mr. Van De Wiele stated that if what the Board is hearing about some of the events being party rentals that is not even lodging. That is an event center and Mr. Van De Wiele didn't think a Special Exception would cover that. Ms. Miller stated that an event center is classified as a commercial use purely. There are bed and breakfast provisions that include events, i.e., weddings, receptions, anniversaries. An applicant would need to specify that in the Special Exception request so the Board could consider that and assign conditions.

Robert Hefley, 3124 South Lewis Place, Tulsa, OK; stated he lives three doors away from the subject property. He is a small fish in the pond compared to his neighbors and he is concerned. This morning he saw the YouTube video about the subject property describing how many people the house will sleep, all the entertainment, the pool, etc. This looks like the subject property is being very actively advertised as an event center. He is opposed to anything other than a single family residence at the subject property.

Terry Monkres, 2433 East 31st Street, Tulsa, OK; stated he lives three houses away from the subject property and has lived there for 51 years. The area is predominately a residential neighborhood. The residents do not care to see the neighborhood changed. One step leads to another, i.e., the Utica Avenue area. There is not another commercial enterprise within a mile in any direction of 31st and Lewis. Mr. Monkres respectfully requests the Board deny the appeal.

Jane Katz, 2622 East 28th Street, Tulsa, OK; stated she has lived in the neighborhood for 42 years. She was responsible for some of the petitions that were signed. Not one person hesitated to sign. Everyone felt so strongly about eliminating commercial usage on the subject property. It seems very apparent from previous testimony about YouTube and the websites that there has been commercial usage.

Tracy Ledbetter, 9735 South 101st East Avenue, Tulsa, OK; stated that it is her daughter that was married at the house. She did not pay any money to Martha Blackburn and she has known Ms. Blackburn since 2009. Ms. Ledbetter stated that her daughter came from Denmark to get married where she lived and the family that she married into came from Denmark. Ms. Ledbetter reiterated that she did not pay Ms. Blackburn any money and that Ms. Blackburn helped pay for part of the wedding.

Rebuttal:

Mark Lyons came forward and stated that he wants to address the misinformation presented. The Facebook posting about the great weekend was actually the co-owner who had high school friends come in from Dumas, Texas that stayed at the house. They did not pay. It is a little shocking that there is so little investigation into the facts, but the accusations were thrown out like they are the undisputed truth. There is no staff at the house and there has never been any staff and there are no employees doing anything at the house. The house is not being commercially offered. Mr. Lyons stated that the YouTube video is Martha Blackburn's son-in-law and that was done pre-citation. Ms. Blackburn would be happy to take the video down if she knew how. Mr. Lyons stated that his clients are not actively promoting the property. Once something is on the internet you cannot put a stop to it. The charity event that is set for August is for one of his client's grandchildren to celebrate the coming of the new school year. The misinformation, accusations and incriminations have got to stop or put into perspective. None of the neighbors provide his clients a list of who their visitors are so his clients are not going to provide a list to the neighbors.

Mr. Van De Wiele stated that if and when the applicant does decide to offer the subject property as a bed and breakfast that maintaining a list of guests who have stayed at the property is a requirement in the Zoning Code and is subject to review by the City.

Mr. Flanagan stated the subject property has been advertised on various sites and he asked Mr. Lyons if his client intends to charge a fee for any engagements at the subject house in the future. Mr. Lyons stated that only if there is full compliance with the City of Tulsa zoning rules and regulations for that. No one is going to be on the property to have a secret wedding or a secret event or a secret party and pay money under the table. Mr. Lyons stated his client is far too ethical for that to happen. If a decision is made in the future to turn the house into a vacation rental or something like that every regulation and rule will be complied with. Nothing is being done under the table.

Mr. Flanagan stated that he is confused. He can have a party at his house but he is not advertising it on VRBO or any other website. Mr. Lyons stated his client is not doing that intentionally and does not know how to make that any more clearer.

Mr. Van De Wiele asked staff to explain the difference between the actual use of short term lodging and the advertisement and the holding it out for such use. Ms. Blank stated the Code describes a bed and breakfast as a detached house in which the owner/operator offers overnight accommodations and meal service to overnight guests for compensation. Mr. Van De Wiele believes that funnels a person into the commercial use category, and it all contemplate a financial payment. Ms. Blank stated that if it is commercial use category for rental or lease.

Comments and Questions:

Mr. Van De Wiele stated the applicant has certainly been advised that a commercial use of a rental facility is against the provisions of the zoning code unless there is a Special Exception. If there are events that are paid going forward that is a violation. In his opinion as to what has happened in the past to get to the point of the Appeal, the language that was read by Ms. Blank is the offering of the property for use. Mr. Van De Wiele stated that he saw the YouTube video and he does not know if VRBO goes into other websites and links to other links but certainly what he has seen leads him to believe that there was some thought on the applicant's part to offer the property as a bed and breakfast or something like that. It sounds like what has gone on there may very well have been done 100% gratis which could be good for the owner but not good for the neighbors. Mr. Van De Wiele believes the property has been offered as a short term rental use like a bed and breakfast so he will vote to uphold the appeal of the administrative official's decision.

Ms. Back stated that in the Code in Chapter 70.140-H states the decision that is being appealed may be reversed wholly or partly modified only if the Board of Adjustment finds that the land use administrator, the development administrator or the administrative official erred. Ms. Back believes that with the facts that were before them at the time they did not err so she will vote to uphold the decision.

Mr. White stated that the bed and breakfast designation troubles him. He is having trouble with the definition. Mr. Van De Wiele stated this may not be what everyone thinks of for a bed and breakfast but there is a decision that needs to be made as to what it most closely resembles. Mr. Van De Wiele stated this may more closely be an event center rather than a bed and breakfast. Mr. White agreed.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **DENY** the Appeal and **AFFIRM** the determination of the Administrative Official; for the following property:

LT 13 LESS BEG SWC TH E 35 NW ON CRV TO WL S 35 POB TO CITY & W 80 LT 14 BLK 5, SOUTH LEWIS PARK, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Flanagan left the meeting at 2:44 P.M.

22262—Mark Bahlinger

Action Requested:

Verification of the 300 foot spacing requirement for a bar from public parks, schools, other bars and religious assemblies and 50 feet from an R-zoned lot (Section 40.050). **LOCATION:** 5800 South Lewis Avenue East (**CD 9**)

Presentation:

Mark Bahlinger, 5747 South 70th East Avenue, Tulsa, OK; stated this is a spacing verification for an existing bar. The plans are to take over an adjoining suite.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 3-0-1 (Back, Van De Wiele, White "aye"; no "nays"; Flanagan "abstaining"; Bond absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing for the proposed bar subject to the action of the Board being void should another conflicting use be established prior to this bar; for the following property:

PRT NE SE BEG 543S NEC SE TH W258 S595.62 E258 N595.50 POB LESS E50 THEREOF FOR ST SEC 31 19 13 2.84ACS, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Flanagan re-entered the meeting at 2:46 P.M.

22263—KKT Architects, Inc. – Nicole Watts

Action Requested:

Special Exception to allow a Commercial Assembly/Entertainment (large, >250 persons) use in the CBD District to permit an event center (Section 15.020).

LOCATION: 621 East 4th Street South **(CD 4)**

Presentation:

Nicole Watts, KKT Architects, 2200 South Utica Place, Tulsa, OK; stated that previously most of the building was retail space. In the past there have been plays, choir concerts and other venues and now the applicant would like to make a permanent event center.

Mr. Van De Wiele asked Ms. Watts if the renovations were interior only. Ms. Watts answered affirmatively.

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 **APPROVE** the request for a Special Exception to allow a Commercial Assembly/Entertainment (large, >250 persons) use in the CBD District to permit an event center (Section 15.020). The approval is subject to interior modifications to the existing structure only. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**LT 1 & PRT LT 2 BEG SELY COR LT 2 TH WLY 47 NLY 140 ELY 46.60 SLY 140
PDB BLK 113, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of
Oklahoma**

22264—Phillip Doyle

Action Requested:

Special Exception to allow expansion of existing non-conforming structure with a rear setback of 22 feet (Section 80.030-D); Special Exception to permit construction of a driveway greater than 30 feet to allow a width of 35 feet on the lot (Section 55.090-F). **LOCATION:** 2931 and 2939 South Quaker Avenue East (CD 4)

Presentation:

Phillip Doyle, 4113 South Madison Place, Tulsa, OK; stated his client has purchased the adjoining property located south and there will be a lot combination next week. The project is a small addition which is an expansion of the master bedroom and a garage. The existing house is 22 feet from the rear property line and he would like to extend the house in relation to what already exists. The driveway is more of a motor court that is sandwiched between two car garages.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of WHITE**, the Board voted 3-0-1 (Back, Van De Wiele, White "aye"; no "nays"; Flanagan "abstaining"; Bond absent) to **APPROVE** the request for a Special Exception to allow expansion of existing non-conforming structure with a rear setback of 22 feet (Section 80.030-D); Special Exception to permit construction of a driveway greater than 30 feet to allow a width of 35 feet on the lot (Section 55.090-F), subject to the conceptual plan 10.9. There is to be no further encroachment into the required setback. The Board finds that the requested Special Exceptions 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 6 BLK 1; ALL LT 7 N 54 LT 8 BLK 1, ROCKBRIDGE PARK, LORRAINE TERRACE AMD, City of Tulsa, Tulsa County, State of Oklahoma

22266—Mac Rosser

Action Requested:

Special Exception to allow a Public, Civic, & Institutional/School Use in the OL District (Section 15.020, Table 15-2). **LOCATION:** 4300 South Harvard East (CD 9)

Presentation:

Mac Rosser, 321 South Boston, Suite 500, Tulsa, OK; stated he represents Positive Changes, LLC and LDL, LLC. They have purchased the subject property. The building was previously owned by Domestic Violence Intervention Services. This facility will be used to provide clinical diagnosis and treatment for children and adolescents experiencing mental health and behavioral problems. The services will be provided only during normal business hours during the day. There are no inpatient treatment and no overnight stays. Dr. Ethan Lindsay is the Board Chairman of Positive Changes and is also the Director of the facility. There are currently three similar facilities operating in the Oklahoma City area with the oldest of those being established in 2005. The proposed facility will be like those in Oklahoma City and will be the first one in Tulsa. The children are required to be at the facility all day and they will receive compulsory educational services which are provided by Tulsa Public Schools at the facility. Mr. Rosser stated that he has met with the permitting office regarding the subject project and they agree that the proper use classification is medical, dental or health practitioner office category in the Code. Because of the educational program a Special Exception is required for the school use in the OL District. The operating hours will be 8:00 A.M. to 5:00 P.M. During the school year each child will receive three hours of educational services per day from the school district and there are no educational services when school is not in session. Tulsa Public Schools will have four teachers on site when their services are being provided. The total staff at the staff will be approximately 25. Most of the children will be brought to the facility by Tulsa public school buses or by private vehicles. There will also be children at the facility that are not from the Tulsa Public School District and those children will be picked up by Positive Changes with their own vans. The school buses will enter either from Harvard or 44th Street because the drop off and pick up will in the rear of the building; there will be no school bus traffic into the neighborhood. When the facility is fully operational there will be about four bus trips at the facility in the morning and four in the afternoon.

Mr. Van De Wiele asked Mr. Rosser about how many students would be attending the facility. Mr. Rosser stated there would be about 90 total students.

Interested Parties:

Dr. Ethan Lindsay, 1117 N. W. 50th Street, Oklahoma City, OK; stated he is the Medical Director and Chairman of the Board of Positive Changes. The treatment is received by the children Monday through Friday from 8:00 A.M. to 5:00 P.M. During the school year children receive 3 ½ hours treatment from medical health professionals and three hours of educational services. During the school breaks, i.e., Christmas and summer, the children receive four hours of medical treatment per day. The facility will also serve as a training site for child analysis psychiatry residency and will also train adult psychiatry residents. The Oklahoma City facilities treat approximately 200 children a day.

Mr. Van De Wiele asked Dr. Lindsay if the teachers were from the Tulsa Public School system. Dr. Lindsay answered affirmatively and this will be their primary job. Mr. Van

De Wiele asked if the medical staff were full time that Positive Changes hired. Dr. Lindsay stated the psychiatrists will be Oklahoma University faculty.

Jana Bingham, 1500 South Frisco, Tulsa, OK; stated she is child psychiatrist and the Program Director for the Child Adolescence Psychiatry training program. The goal is train new doctors to be child adolescence psychiatrists. This program fits very well with the mission of Oklahoma University School of Community Medicine and using community resources to provide training for the trainees. The program also represents a gap in the delivery services to children having problems, and the gap is between the children that are very seriously ill and there are children that are in outpatient treatment. This program will help correct that huge gap. Ms. Bingham urges the Board to approve this proposal.

Rebuttal:

Mac Rosser came forward and stated that he met with the neighborhood, and their questions and concerns were addressed.

Comments and Questions:

None.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to allow a Public, Civic, & Institutional/School Use in the OL District (Section 15.020, Table 15-2), subject to conceptual plan 12.9 in the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

E155 LT 1 & E155 LT 2 BLK 1, VILLA GROVE PARK, City of Tulsa, Tulsa County, State of Oklahoma

22267—Mike Jones

Action Requested:

Special Exception to allow for Wholesale Distribution & Storage/Warehouse use in the CS District (Section 15.020, Table 15-2). **LOCATION:** 10855 East Admiral Place North (CD 3)

Presentation:

Mike Jones, 6708 East 107th Place South, Bixby, OK; stated he purchased the property for his business offices because they have run out of room in their current facility. He would like to have a 5,000 square foot office and a 20,000 square foot warehouse behind the offices.

Mr. Van De Wiele asked Mr. Jones what his business is. Mr. Jones stated his business is a commercial drywall contractor.

Mr. Van De Wiele asked Mr. Jones if anything would be stored outside. Mr. Jones stated that his equipment and materials are better off inside thus the need for a large warehouse.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to allow for Wholesale Distribution & Storage/Warehouse use in the CS District (Section 15.020, Table 15-2), subject to conceptual plan 13.20 in the agenda packet. The Board finds that the requested Special Exceptions will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

E/2 E/2 W/2 LT1 LESS S75 FOR ST & N17 W/2 E/2 W/2 LESS BEG NWC W/2 E/2 W/2 LT 1 TH E165.06 SW30.33 SW28.23 W111.34 N17 POB SEC 6 19 14 2.298ACS, City of Tulsa, Tulsa County, State of Oklahoma

22268—A-Max Sign Company – Lori Worthington

Action Requested:

Variance to increase the permitted height of a projecting sign to from 25 feet to 62 feet in the CBD District (Section 60.080-D). **LOCATION:** 616 South Boston Avenue East (**CD 4**)

Presentation:

Brian Ward, A-Max Sign Company, 9520 East 55th Place, Tulsa, OK; stated this sign was previously approved in 2012 and the client never took action on it. Now the customer would like to erect the sign.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 3-0-1 (Back, Flanagan, White "aye"; no "nays"; Van De Wiele "abstaining"; Bond absent) to **APPROVE** the request for a **Variance** to increase the permitted height of a projecting sign to from 25 feet to 62 feet in the CBD District (Section 60.080-D), subject to conceptual plans 14.9 and 14.10 in the agenda packet. The Board has found the hardship to be the building location to the property line. The Board finds that the following facts, favorable to the property owner, have been established:

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

LT 3 & N50 LT 4 BLK 163, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

22269—Natalie Hynes

Action Requested:

Special Exception to permit a Bed & Breakfast (Airbnb) in the R District (Section 5.020). **LOCATION:** 3540 East 21st Place South **(CD 4)**

Presentation:

Natalie Hynes, 3923 South 65th West Avenue, Tulsa, OK; stated the request is for an Airbnb and there will be no events or parties hosted at the house, and no pets will be allowed. Tulsa is a growing market and the house will be very structured and she will be careful as to who stays. Ms. Hynes stated that six neighbors called her and they encouraged the project. She will come by the property to check on it and make sure that everything is maintained. Ms. Hynes stated that her family owns several properties, commercial and residential in Tulsa. Ms. Hynes stated that she saw the news story on FOX 23 on May 24th and she filed for the permit on May 25th. No one has ever stayed

at the house and no one has slept there since she has owned the house. She and her family want to do everything by the book and make it a positive thing for the neighbors. The house will be just for people traveling to or through the city.

Mr. Van De Wiele asked Ms. Hynes if the house was three bedrooms. Ms. Hynes answered affirmatively. Ms. Hynes stated the house will be booked as one booking, no one will be allowed to just rent a bedroom. Mr. Van De Wiele asked if there would be a limit to the number of people that could stay in the house. Ms. Hynes stated there would be a limitation to the amount of guests with eight being the maximum amount. There is a two-car garage also that the guests will have access to and the driveway could accommodate up to four cars.

Interested Parties:

Patti Barker, 3516 East 21st Place, Tulsa, OK; stated she lives five houses to the west of the subject property and she has lived there for 21 years. She is in support of this request. She is a consumer of VRBO and Airbnb properties when she travels. Guests are held to standards and she knows the standards hosts are held to. Ms. Barker stated there are rental properties on the street and she would prefer an Airbnb to a landlord, because it takes landlords forever to evict a problem or to take care of a yard or to fix a house. Ms. Barker this would be a great addition to the neighborhood and there are other VRBOs in the neighborhood that are obviously not licensed. This is not anything new because it has been going on in Tulsa for a long time. Her daughter married six years ago and she rented a VRBO for wedding guests in the 22nd and Lewis area. Ms. Barker stated that she knows what kind of deposit is required and she knows what is lost when a guest does not take care of a property. Ms. Barker stated that the applicant's family has been in Tulsa for generations and they are respected. This is a great addition, especially since it is so close to Route 66, so cannot imagine that it will not be an asset to the neighborhood.

Carolyn Gaither, 3520 East 21st Place, Tulsa, OK; stated she owns a house at 3515 East 22nd Place. Ms. Gaither stated that most of the houses have one car garages and during the festivities there is parking on one side of the street only. Ms. Gaither is worried about this request opening up the neighborhood to people having the crazy idea that they can make money because it is a small neighborhood. Ms. Gaither stated she bought her house in 1957 and she bought the house on 22nd Place in 1972 and she loves the area. The area is residential and the houses are not large. The yards are not large. Ms. Gaither stated that she worried about strangers coming in and out of the neighborhood, and it is scary. Ms. Gaither asked the Board to please consider the people that live in the neighborhood. The neighborhood does not need businesses coming in and allow people to come in with hair brained ideas.

Rebuttal:

Natalie Hynes came forward and presented a photo of the subject house showing the two-car garage and the driveway. Ms. Hynes stated that she wants to assure Ms. Gaither and the neighbors that this is not some sort of hair brained idea. Ms. Hynes stated that her family owns and has owned several businesses and residential

properties, which they lease the residential property through Chenoweth and Cohen. This is not something that her family takes lightly and this will be handled like a professional business.

Ryan Sharnell, 1525 South Owasso, Tulsa, OK; stated he did not plan on speaking today; he is attending just to see what is going on with the Airbnb. Mr. Sharnell stated that he will have a similar issue coming before the Board of Adjustment in July. Mr. Sharnell stated that he does not think the Code is written to handle Airbnbs or a Bed & Breakfast. A bed and breakfast is where the resident is on staff, and are in the house looking over the people that are renting the property. The Airbnbs are outside the bed and breakfast realm because the owner is not on site. The concern in Tulsa, in general, by allowing the Airbnbs is the absent owners. There is no one overseeing the property other than a negative review two weeks later. Mr. Sharnell stated that he thinks it can have a snowball effect so before one is approved, more in the future will be hard to deny regardless of what the residents say or object to.

Mr. Van De Wiele stated that he has asked the question about "owner occupied" to the INCOG staff and because he too generally views a bed and breakfast as owner occupied. But it is not required, at least in the way the Zoning Code defines a bed and breakfast. Owner occupancy is not required under the Zoning Code.

Mr. Van De Wiele asked Ms. Miller if staff, City Council, or anyone looking at this for more clarification, because this seems to be a square peg trying to fit into a round hole. Ms. Miller stated that next week there is a meeting in the Mayor's office to discuss and review all the different perspectives of a bed and breakfast.

Mr. Sharnell stated that even the Board has suggested in the past to look at the Code to address amending the Code to the Airbnb situation, while not hastily making a decision.

Ms. Hynes came forward and stated people are applying for these permits and the City actually told her that she was the first to actually apply for a permit without receiving any complaints. Ms. Hynes stated they have received zero complaints because they have not been open. When people come to Tulsa they are going to find some place to stay and in this day and age they are moving away from hotels because they want the home away experience. She has spent \$766.00 to receive a license from the City, sent letters to the neighbors and met with the neighbors. From her perspective she is ready to go and get the business started.

Allen Hynes, 3923 South 65th West Avenue, Tulsa, OK; stated that he is a business man and takes things seriously. This is a house that he passes almost every day and he can check on it a lot. He can make sure the lawn and the flower beds are taken care of. This is something that they are not going to be an absentee about.

Comments and Questions:

Mr. Van De Wiele stated that he appreciates the fact that the applicant filed an application prior to opening and the fact that they reached out to the neighbors. In

regards to this application he does not see this as opening the flood gates because every one of the applications presented to the Board are taken on a one on one basis. Mr. Van De Wiele thinks this is a good use of the property. He would want to see limitations on a single booking with no parties or events, no exterior signage, and a time limitation of three to five years because of how new these establishments are.

Mr. Flanagan stated that he has no issues with the request. The only way the Board can judge future behavior is by past behavior and it is a good thing that Ms. Hynes filed for a permit prior to opening.

Mr. White thinks the instead of imposing a time frame should the request be approved let the market sort it out. Mr. Van De Wiele stated that his thoughts are that this is an existing three bedroom house and it will still be that three to five years from now even the applicant loses the Special Exception. Mr. Van De Wiele stated that what may be good for the business may not be good for the neighborhood.

Ms. Back stated that it has been stated that staff will have a meeting next week to discuss all the components of this and the impacts. Ms. Back could support this request but her concern is if this request is granted today will the applicant be grandfathered in and not have to pay hotel taxes? Ms. Miller stated that it is her understanding that in the State of Oklahoma there will be taxes charged on Airbnbs on July 1st but that is not connected to any zoning.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to permit a Bed & Breakfast (Airbnb) in the R District (Section 5.020) in the existing structure. The approval is subject to the following conditions: a five year time limit set from today's date of June 27, 2017 and is to end June 26, 2022; there is to be no exterior signage allowed; no bookings for events or parties will be allowed; and there is to be single bookings with no partial bookings. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 2 BLK 5, JEFFERSON HILLS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Miller left the meeting at 3:50 P.M.

22270—Austin Hingey

Action Requested:

Special Exception to increase the permitted height of a fence within the required street (front) setback (Section 45.080). **LOCATION:** 1541 East 4th Street South (CD 4)

Ms. Miller re-entered the meeting at 3:53 P.M.

Presentation:

Austin Hingey, 314 South Trenton Avenue, Tulsa, OK; stated the application is for a pollination fence and it will be over four feet but less than eight feet in height.

Mr. Van De Wiele had page 16.6 from the agenda packet placed on the overhead projector which shows the existing fence made of wooden pallets. Mr. Hingey stated the picture designates one side of the fence and only one side of the fence is complete.

Mr. Van De Wiele asked Mr. Hingey where that fence is located. Mr. Hingey stated the existing fence is located on the southern border of the subject property.

Mr. Van De Wiele stated the standard is that the request will be in harmony and spirit of the Code and will not be injurious to the neighborhood. Mr. Van De Wiele asked Mr. Hingey what he could tell the Board to convince them this is not injurious to the neighborhood.

Mr. Hingey stated that currently we are in a bee crisis and this fence will provide a habitat for bees to pollinate. It will also allow bees to increase their population in our state. This will not be injurious to the neighborhood. It will actually beautify the neighborhood. It will increase the value of the neighborhood and it will be attractive to walkers and the city goers who enter the garden to view and appreciate.

Mr. Van De Wiele asked Mr. Hingey if he planned on planting vines to creep up the pallet fence. Mr. Hingey answered affirmatively. Mr. Hingey stated that he has planted several vining plants, i.e., yellow squash, on the inside of the fence currently. All the vines flower and also provide materials for arts and crafts, i.e., the gourds.

Ms. Back asked Mr. Hingey if there will be beehives on the subject property and if he is a bee keeper. Mr. Hingey stated that he is not a bee keeper now but he is learning and interested on creating beehives to keep on the property and those hives would be at least ten feet from the sidewalk or road. Ms. Back asked if the craft projects made from the gourds would be sold. Mr. Hingey stated that he did not plan on selling the gourds but he does think they are beautiful; people could have the gourds for free.

Interested Parties:

Larry Jenkins, 8835 South 74th East Avenue, Tulsa, OK; stated he represents Hickory House Properties and the New Church Studio on the corner of 3rd and Trenton. The fence is unsightly and constructed with warehouse pallets that are stacked upright and they are top heavy. The fence is right up to the sidewalk and he thinks children would climb the pallets like a ladder, and if they fall off the pallet it could be very injurious to the children. The pallets are also not uniform so they make an unsightly fence. Mr. Jenkins stated that he went to see the fence and shook parts of it, and parts of it are pretty solid but other parts are loose. Pallets tend to come apart and the nails rust; he does not think it is an appropriate material to build a fence, particularly at eight feet in height. The fence does not compliment the image that is being produced at the New Church Studio, which is a major development and will open in August.

Craig Stutsman, 5643 South 85th East Avenue, Tulsa, OK; stated he owns one of the properties that adjoins the subject property fence line. Mr. Stutsman asked if the community pollination garden would be accessible by all and if there were hours of operation for the garden.

Rebuttal:

Austin Hingey came forward and stated the garden will be a community garden and there will be access to the garden from all the houses that back up to it. There will also be access to the garden from the service access lane at the north end of the property, and there will be access to the garden on the south end of the property. There is access to the garden from all sides of the property. It will be a community garden and everyone will be invited to garden in the community garden.

Mr. Van De Wiele asked Mr. Hingey how detrimental would it be to the pollination of the garden if he were limited to only one row of pallets. Mr. Hingey stated that it would reduce the amount of pollination available by half, but he can double the amount of pollination with the fence as designed on the property. Mr. Van De Wiele asked Mr. Hingey if he could have a four foot fence then go back so far to have another row of fence. Mr. Hingey stated the benefit to a pollination trellis fence is that it allows a person to garden vertically and it will be more densely grown for use.

Mr. White stated that one of the requirements for a community garden is that the person responsible for the upkeep of the garden have a sign erected with a person's name and telephone number for a contact point, is that set up? Mr. Hingey stated the sign is not complete but it is in the process of being made.

Comments and Questions:

Ms. Back stated that she does not think that the fence is in keeping with the spirit and intent of the neighborhood. She does not think commercial pallets were designed to be fencing material. She likes the creative and community gardening ideas. Her concern is that an eight foot fence wall for vertical gardening is going to get dense and that becomes a safety issue. She cannot support this request.

Mr. Van De Wiele applauds the effort of Mr. Hingey because there certainly is a declining number of bees and anything that can be done in the city to help is an admirable effort. The vertical gardening aspect is an interesting take but he tends to think from a neighborhood visual impact it seems like vertical gardening and the surface area for the pollination could be accomplished with two rows of four foot fencing. The idea is great but the height is a concern for him.

Mr. Van De Wiele asked staff if there were regulations regarding fencing materials. Ms. Miller stated that in the Zoning Code it states that "fences and walls provided to meet the screening standards of the section", otherwise, there are not any regulations.

Mr. Van De Wiele asked Ms. Miller how the side yard is determined to start. Ms. Miller stated that it is the front setback.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **DENY** the request for a Special Exception to increase the permitted height of a fence within the required street (front) setback from 4'-0" to 7'-8" (Section 45.080); for the following property:

LT 23 BLK 5, MIDWAY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22271—GH2 Architects – Michael Hall

Action Requested:

Special Exception to permit two dynamic display signs in the AG District (Section 60.050); Special Exception to permit a dynamic display within 200 feet of an R District (Section 60.100-F); Variance to permit a dynamic display within 50 feet of a signalized intersection (Section 60.100-D); Variance of the allowable display surface area for two dynamic displays (Section 60.050); Variance of the allowable display surface area for freestanding signs in the AG District (Section 60.050-B,2); Variance of the allowable number of freestanding signs in the AG District (Section 60.050-B,2); Variance of the allowable height of freestanding signs in the AG District (Section 60.050-B,2). **LOCATION:** 4145 East 21st Street South (Tulsa County Fairgrounds) **(CD 4)**

Mr. Van De Wiele asked staff if the property was County property. Ms. Miller stated that it is County owned property within the City of Tulsa jurisdiction.

Presentation:

Tom Vogt, 15 East 5th Street, Suite 3800, Tulsa, OK; stated he is before the Board on behalf of the Fairgrounds. These signs are part of a comprehensive make over, which the signs have not been updated in many years and could be considered relics. The

current signs are not very noticeable and there is no interior illumination. The signage is a very small part of a project that will be funded by the \$30 million dollar tax package allocated to the Fairgrounds. The overall size of the Fairgrounds and what happens at the Fairgrounds makes this a modest signage proposal. The Fairgrounds facility as a whole is approximately 240 acres which includes the baseball field on the northeast corner and the water park on the southeast corner. There are nine separate entrances located on four streets with an approximate total of 13,000 square feet of frontage. The new sign plan is part of a master plan and there will be extensive internal signage done. The gates will be renamed. The complex is over 5,000 square feet of exhibit space; 2,200 horse stalls; and 11,000 parking spaces. The signs, particularly the dynamic displays, will be used for advertising and promoting events and traffic control. There over 300 events in a year and many weekends have multiple events that need traffic control and management; 3 million visitors a year. There are seven signs proposed along 21st Street in addition to the existing small electronic message center that is located in front the Expo board which was approved in 1994. This is a request for a total of eight signs, seven of which will be reconstructed excluding the hotel sign. Several of the signs are very low profile signs with lighted letters. The signs marking the entrance to the property will be of uniformity design and give gate identification. The main gate signs will be located at Gates 1 and 7.

Mr. Flanagan left the meeting at 4:22 P.M.

The main gate signs will have a total height of 22 feet and the last two or three feet is a small thin projection above the height limit. The digital display will be on the north side of the sign extending inward toward the subject property to provide distance from the traffic signal. The bottom of the display will be at 12 feet and the total height will be 17 feet. Gate 8 will have a taller sign that will be a total height of 28 feet but the top six to eight feet of that height is a series of flags.

Mr. Van De Wiele asked Mr. Vogt if the only digital signs are located on 15th and 21st at Sandusky. Mr. Vogt answered affirmatively.

Mr. Van De Wiele asked Mr. Vogt to explain to the Board the light impact of the signs. Mr. Vogt stated the orientation of both signs is east and west with a four foot tall rock wall being angled at a 45 degree angle. What minimizes the impact is that 21st Street and 15th Street are both five lane streets with 100 foot right-of-way, and the closest houses are at the most severe angle of the sign making the light impact minimal. There are no houses within 200 feet. There are no accesses or driveways on 21st Street but there are backyards with a substantial tree barrier planted on the fence line which is maintained by the Fairgrounds.

Mr. Flanagan re-entered the meeting at 4:25 P.M.

Interested Parties:

Phil Baker, 11004 East 11th Place, Tulsa, OK; stated he purchased an investment property recently on 14th Place. He likes the stated intention of the use of the signs but his concern is that someday someone will make a bright, flashy annoying program for the sign. There are approximately 278 houses or lots that will be affected by the signs. If it is perceived that there is an annoying sign in the area the value of the houses will drop about 15%. If the signs are distracting it could be very dangerous especially during large events such as the fair. Mr. Baker would like to see a specific verbiage to make sure the signs are never distracting and used strictly for informational purposes.

Mr. Van De Wiele asked staff about the regulations in the Code regarding LED signs. Ms. Moyer stated that both in the AG District and the Residential District there are additional requirements. The sign hours of operation are between 7:00 A.M. to 9:00 P.M. There is a limitation to the size of the dynamic display but the applicant has requested a Variance of that requirement.

Rebuttal:

Tom Vogt came forward and stated he understands there are specific requirements for the AG District and R District along with the general requirements. There are a lot of houses that surround the subject property but there are very few that are in close proximity to the signs because of the east-west orientation of the signs and severe angled position.

Comments and Questions:

Ms. Back stated that she is having a hard time with the hardship but it is a great design.

Mr. Van De Wiele stated the size of the property and the need to direct the traffic and the public is a hardship. His only concern is with the LED displays but there is sufficient evidence regarding the impact on the neighborhoods will be minimal.

Mr. Flanagan agreed with Mr. Van De Wiele.

Mr. White stated that he personally supports the request but he is having trouble with the hardship.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Flanagan, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to permit two dynamic display signs in the AG District (Section 60.050); Special Exception to permit a dynamic display within 200 feet of an R District (Section 60.100-F); Variance to permit a dynamic display within 50 feet of a signalized intersection (Section 60.100-D); Variance of the allowable display surface area for two dynamic displays in the AG District from 32 square feet to 48.7 square feet (Section 60.050-B); Variance of the allowable display surface area for freestanding signs in the AG District (Section 60.050-B,2); Variance of the allowable number of freestanding

signs in the AG District (Section 60.050-B,2); Variance of the allowable height of freestanding signs in the AG District (Section 60.050-B,2), subject to conceptual plans 17.16, 17.17, 17.18, 17.19, 17.20 and 17.21 in the agenda packet. Finding the hardship to be this particular piece of property is approximately 240 acres in size and the surrounding properties around this particular site are residential properties of residential size and the need for locating the site and the directional needs of the public. The Board believes this is a unique piece of property that is not necessarily similar to the standard of the area. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The Board finds that the following facts, favorable to the property owner, have been established:

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

SE & E/2 SW LESS W35 & N40 E/2 SW & LESS N40 SE & LESS BEG SECR SE TH N2597.68 W370 SE72.8 E230 SE14.13 S1892.68 W900 S590 W591.74 S50 E1572.48 POB FOR STS & LESS BEG 35N & 1547.5E SWC SW TH N200 E296. 23 SW74.6 SWLY CRV 283.14 W25 POB & LESS 60W & 7 AND TR IN SW SE SW BEG 35N & 1547.5E SWC SEC TH N200 E296.23 SW74.6 SWLY CRV RT 283.14 W25 POB SEC 9 19 13 1.01 ACS City of Tulsa, Tulsa County, State of Oklahoma

22272—Brian Riddle

Action Requested:

Special Exception to permit a dynamic display located within 200 feet of the R District (Section 60.100-F); Variance to permit two wall signs; Variance to increase the permitted display surface area of wall signs in the AG District (Section 60.050-B-2); Special Exception to permit a dynamic display in the AG District (Section 60.050). **LOCATION:** 12000 East 31st Street South (CD 6)

Ms. Back recused and left the meeting at 4:45 P.M.

Presentation:

Brian Riddle, Hollis & Miller Architects, 1828 Walnut Street, Kansas City, MO; stated this is for a 130,000 square foot community elementary school, Pre-K through 5th grade, located on East 31st Street. The project is currently under construction and is a multi-phase project. The school will also be used as a community facility with a lot of after school activities. The gymnasium will be open to the public after school is dismissed. There will be community programs, i.e., community cooking classes. The display area of the sign is only 32 square feet which under the regulated size. There is 420 feet to the nearest residential neighborhood and across the street is a park area with a fire station.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **FLANAGAN**, the Board voted 3-0-1 (Flanagan, Van De Wiele, White "aye"; no "nays"; Back "abstaining"; Bond absent) to **APPROVE** the request for a Special Exception to permit a dynamic display located within 200 ft. of an R district. (Section 60.100-F); Variance to increase the number of permitted walls signs on a building in an AG district from one to two; Variance to increase the permitted sign display surface area of wall signs from 32 sq. ft. to 95.5 sq. ft. (Section 60.050-B-2); Special Exception to permit a dynamic display in an AG zoned district (Section 60.050)., subject to conceptual plans 18.8, 18.9, 18.10, 18.11, 18.12, 18.13 and 18.14 in the agenda packet. The Board has found the hardship to be the need for identification purposes and the size of the land itself. The Board finds that the requested Special Exceptions 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. In granting the Variances the Board finds that the following facts, favorable to the property owner, have been established:

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

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

NE NW LESS BEG SWC NE NW TH N315 SE182.47 SE93.88 SE193.49 W330 POB & LESS BEG 50S NEC NE NW TH S1269.23 W377 N450 E337 N819.25 E40 POB & LESS N50 FOR ST SEC 20 19 14 32.937ACS, BRIARGLEN ADDN, BRIARGLEN CENTER RESUB PRT AMD RESUB B2-3, GARNETT VILLAGE, BRIARGLEN EXT PRT RES A BRIARGLEN, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Back re-entered the meeting at 4:55 P.M.

OTHER BUSINESS

None.

NEW BUSINESS

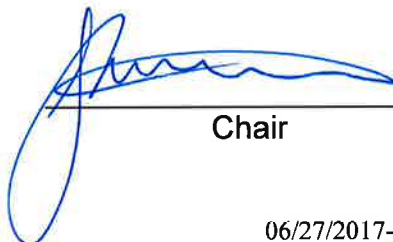
None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 3:03 p.m.

Date approved: 7/25/17


Chair