

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1192  
Tuesday, September 26, 2017, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2<sup>nd</sup> Street

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Van De Wiele, Chair Flanagan, Secretary Back Bond	White, Vice Chair	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, September 21, 2017, at 11:45 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.

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

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**MINUTES**

None.

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**NEW APPLICATIONS**

**22325 – Eller & Detrich – Lou Reynolds**

**Action Requested:**

Special Exception to allow the driveway width to exceed 30 feet in width on an RS-1 zoned lot (Section 55.090-F3). **LOCATION:** 2745 East Birmingham Place South (CD 4)

**Presentation:**

The application has been withdrawn.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

No Board action required; for the following property:

**S 1/2 LT 6 LESS E 10 BLK 4 BLK 4, WOODY-CREST SUB, City of Tulsa, Tulsa County, State of Oklahoma**

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**OTHER BUSINESS**

**22315—Janet Fadler-Davis**

**Action Requested:**

Special Exception to allow a Bed and Breakfast (Airbnb) in the CBD District (Section 15.020). **LOCATION:** 808 East 3<sup>rd</sup> Street South **(CD 4)**

**Presentation:**

The application was withdrawn because the requested relief was not needed. The applicant requests a refund of \$500.00.

**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, Bond, Flanagan, Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **APPROVE** the request for a **REFUND** in the amount of \$500.00; for the following property:

**PRT LT 12 BEG SWC LT 12 TH E90 N50 W15 SWLY TO PT S39 W59 SWLY TO POB BLK 12, HODGE ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

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**NEW APPLICATIONS**

**22333—Wallace Engineering – Jim Beach**

**Action Requested:**

Variance of maximum building height of a field house from 35 feet to 49 feet (Section 5.030). **LOCATION:** 4929 North Peoria Avenue East (CD 1)

**Presentation:**

Staff requests a continuance to the October 10, 2017 hearing date to correct a mistake in the legal description.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **CONTINUE** the request for a Variance of maximum building height of a field house from 35 feet to 49 feet (Section 5.030) to the October 10, 2017 Board of Adjustment meeting; for the following property:

**S825 OF W1320 OF N/2 SW SEC 7 20 13, CLEMISHIRE HGTS, NORTHRIDGE ADDN, LONGVIEW PARK ADDN, BUENOS VISTA SUB, SUNSHINE ACRES ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

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Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present at this time. All five members were scheduled to be here today but Mr. White had a medical emergency that required him to be absent today. When there is less than a full Board the Board will entertain a request to continue agenda items to a later meeting date, at which all five members of the Board can be present. 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. The audience nodded their understanding and no one came forward to request a continuance.

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**UNFINISHED BUSINESS**

**22285—Valorey Totten**

**Action Requested:**

Special Exception to allow a Type 2 Home Occupation in an RS-1 District to permit a landscaping business (Section 45.100). **LOCATION:** 19140 East 7<sup>th</sup> Street South (CD 6)

**Presentation:**

**Valorey Totten**, 19140 East 7<sup>th</sup> Street, Tulsa, OK; stated that the repairs on the subject site have been finished and she has moved into the existing house. This request is for a very small retail dirt sales yard; it is not really a landscaping business because she does not perform any landscaping services. She just has the materials that she supplies to individual home gardeners. Her supplies consist of dirt, sand and rock, mulch and top soil which are small mounds and loaded with a skid loader.

Mr. Van De Wiele asked Ms. Totten if the materials she sells are stored outside. Ms. Totten stated that she has in the past but she now understands she must erect a structure to place the materials in.

Mr. Van De Wiele asked Ms. Totten what her time frame is for the needed structure. Ms. Totten stated she must obtain a permit to be able to erect the structure, and once the permit is issued she thinks she could have the structure complete in 60 to 90 days.

Mr. Bond asked Ms. Totten if she had any discussions with the neighbors about her request. Ms. Totten stated that she does not really have any neighbors. Even though the subject property is in a residentially zoned area it is probably the most dismissal failure of a housing addition. It never built out and she owns both sides of the street and she owns the adjacent houses so there are no neighbors. The subject property is located on 193<sup>rd</sup> East Avenue, which County Line Road, between Catoosa and Broken Arrow. The one neighbor she does have lives across the street in Wagoner County and they do not object.

**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, Bond, Flanagan, Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **APPROVE** the request for a Special Exception to allow a Type 2 Home Occupation in an RS-1 District to permit a landscaping business (Section 45.100), subject to conceptual plans 1.5 and 1.6 of the agenda packet. The materials shall be stored inside and the applicant has 180 days to comply with the completion. 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 BLK 2, INDIAN HILLS, City of Tulsa, Tulsa County, State of Oklahoma**

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Mr. Van De Wiele stated there are several VRBO, Airbnb or Bed & Breakfast applications on the agenda today. There have been several over the last few months and they have historically taken quite a bit of time. What has been done, starting with the last meeting, is to place a time limitation to get through each of these cases in no more than 30 minutes. The time limits that will be put in place are as follows:

- ❖ The applicant will have ten minutes to make his or her presentation
- ❖ Those that wish to speak either in favor of or in opposition will be limited to three minutes apiece and a total of 15 to 20 minutes
- ❖ Please do not repeat what other neighbors are saying
- ❖ At the end of that time period the Board will give the applicant ten more minutes for a rebuttal
- ❖ The Board will then go into discussion and act on the application
- ❖ The Board will be keeping time and the speaking party will be given a warning before their time is up and please be respectful of the fact that there are a lot of people here and everybody wants to be heard

Mr. Van De Wiele announced that he has a 3:30 P.M. meeting upstairs and he will need to leave for about 15 to 20 minutes and the consequences of that time frame will be dealt with when it comes about.

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**22320—Donald and Dee Ann Short**

**Action Requested:**

Special Exception to allow a Bed and Breakfast (short-term rental) in an R District (Section 5.020). **LOCATION:** 1716 East 13<sup>th</sup> Street South (CD 4)

**Presentation:**

**Dee Ann Short**, 254 Paradise Drive, Chouteau, OK; stated the subject house sits on 13<sup>th</sup> Street and there are hospital office buildings and the hospital parking lot across from it so the house is not in a true neighborhood setting. Ms. Short stated that her daughter lives next door to the subject property on the east side. The driveway of the subject house can hold three cars easily so there should be no problem with parking for guests. The neighborhood is mixed use already. The house has privacy fencing all the way around it and she has made improvements to the subject house and remodeled the

interior. Ms. Short stated that she has a lawn service to take care of the yard and the person that does that for her lives a couple of doors away. She and her husband take care of the cleaning after guests check out so she is constantly aware of what is going on with the house. Ms. Short stated that she pays extra to have back yard trash service so there is nothing sitting out front to impact anyone's view. Ms. Short stated that the subject house will eventually be her house when she cannot live at the lake any longer.

Mr. Van De Wiele asked Ms. Short how often she anticipates having overnight guests. Ms. Short stated that she has placed a limit on the property with Airbnb, so no one can stay longer than three weeks.

Mr. Van De Wiele if there would be only single bookings. Ms. Short stated there will be no parties and only one user at a time.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Ms. Back stated that, for the record, she lives close to the subject property but she does not know the applicant nor has she spoken to anyone in the neighborhood about the subject property.

Mr. Flanagan stated that he has no issue with the request.

Mr. Bond stated that there is an absence of interested parties today and the subject property is next to a hospital so it can fulfill a community need. He does not have an issue with this request.

Mr. Van De Wiele agreed with the other Board members. Mr. Van De Wiele stated the ones he has seen that are more acceptable are the ones like this, that are on the edge of a neighborhood or where the owner is basically on site. The fact that this is across from commercial use seems to make this more agreeable and less injurious to the neighborhood.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Flanagan Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **APPROVE** the request for a **Special Exception** to allow a Bed and Breakfast (short-term rental) in an R District (Section 5.020), subject to conceptual plan 2.8 of the agenda packet. The approval will have a time limit that will expire on September 25, 2022. 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 9 BLK 14, TERRACE DRIVE ADDN RESUB B6 & L1-3 B4, City of Tulsa, Tulsa County, State of Oklahoma**

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## **NEW APPLICATIONS**

### **22291—Dale Williams**

#### **Action Requested:**

Special Exception to permit a detached house in a CH District (Section 15.020, Table 15-2). **LOCATION:** East of the NE/c of East 34<sup>th</sup> Street & South Peoria Avenue East (**CD 9**)

#### **Presentation:**

**Dale Williams**, 1133 East 33<sup>rd</sup> Place, Tulsa, OK; stated he would like to build a single-family home on East 34<sup>th</sup> Street.

Mr. Van De Wiele asked staff about the map on page 3.1 in the agenda packet signifying the subject property to be zoned CH. Ms. Miller stated this was just recently approved by the Planning Commission and the applicant had to wait until all the steps in the process were completed and it was published in the newspaper, so it is effective but it does not reflect the CH zoning. Mr. Van De Wiele asked Ms. Miller if the subject property had been rezoned to CH. Ms. Miller answered that it is CH with an optional development plan.

Mr. Van De Wiele asked Mr. Williams why he did not rezone the subject property to residential since he would like to erect a residential home on the property. Mr. Williams stated the property is suitable for mixed use or a PUD, but PUDs no longer exist. This lot was always planned to be a commercial zoned piece of property but he is the crazy guy who wants to have a single-family house close to all the Brookside activity. The other half of the lot he would like to build a small office allowing him to have his office as well as a single-family residence. He asked for an optional development plan that would allow him to have an office on both parcels if he so chose and at the City Council meeting there were several neighbors that protested. City Council recommended a compromise that a single-family residence be on the eastern half and the office on the western half of the property so there would be a single-family residence between the residential and the commercial districts.

#### **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, Bond, Flanagan Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **APPROVE** the request for a **Special Exception** to permit a detached house in a CH District (Section 15.020, Table 15-2), subject to conceptual plan 3.8 of 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:

**LT 11, BLK 1, OLIVERS ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**22323—Donald Walton**

**Action Requested:**

**Special Exception** to allow a Bed and Breakfast (Airbnb) in the RS-3 District (Section 5.020). **LOCATION:** 5912 South Richmond Avenue East (**CD 9**)

**Presentation:**

**Donald Walton**, 36020 East 142<sup>nd</sup> Street South, Coweta, OK; stated that when he purchased the subject property his idea was to be close to the St. Francis Hospital main campus so he could open it up to the staff and patients. The first experience he had with the property was a long-term rental and that was a disaster. He then decided to list the subject property on Airbnb, and he liked that a lot better because there is accountability. As for the neighborhood, he knows that it is a mature residential neighborhood and it is a wonderful sanctuary of peace and calm in the middle of the city making it ideal. He has applied for a sales tax license and a hotel license, and now he is before the Board requesting a Special Exception. This house represents a large part of his life savings and he wants to make it work. Mr. Walton stated that he quit his consulting business to do just this as a business, and it is what he wants to do. The neighborhood has seen a lot of change; they have seen St. Francis, Kings Point Shopping Center, Warren Place office tower go up and this is another change. Mr. Walton stated that he wants to make sure the house will be a positive for the neighborhood not a negative.

Mr. Van De Wiele asked Mr. Walton how often he would be renting the house out; how many times a year, how many times a month, etc. Mr. Walton stated that he has a two night minimum so there would be no transients passing through and the average stay is five days. Mr. Van De Wiele how many people would typically stay in that five day average stay. Mr. Walton stated that it four to five people to a group, because when the reservations is for two it is more economical for them to stay at the Double Tree Hotel. Mr. Van De Wiele asked if the group of five was a Mother, Dad and three children. Mr. Walton stated that it is typically a family, or an extended family, or a group of professionals coming in for a trade show. Mr. Walton stated that he has not had a lot of people from St. Francis and he thinks it is because the house is not on their vendor list.



**Interested Parties:**

**Kurt Glassco**, 5802 South New Haven, Tulsa, OK; stated he lives in Rustic Hills and the subject property is in Holliday Hills subdivision, and the two subdivisions have merged. He has lived in the area for 28 ½ years and grew up in the area. Mr. Glassco stated that he is in opposition to this request. The restrictive covenants of Holliday Hills or Rustic Hills specifically prohibits commercial activities such as what is being proposed. The restrictive covenants have not been abandoned by the neighborhood since it was created. This is not a residential use but as it has been described is a commercial use. There are plenty of commercial areas around the neighborhood. The neighborhood is intact as a residential area. There is no commercial activity in this subdivision or the one adjacent to it. Mr. Glassco stated that the proposed use is not in harmony with the area and it violates the spirit of the housing code or zoning code of the City.

**Jan Madole**, 5842 South Richmond Avenue, Tulsa, OK; stated she lives seven houses down from the subject property. She asked the Board if they were aware of any permits of this type being issued in the Holliday Hills area.

Ms. Moyer stated that when she was researching the case history the Board has not approved any bed and breakfast use. Ms. Madole stated that this then would set a precedent that she would personally not want to see happen. Mr. Van De Wiele stated that it would not set a precedent because every one of the Board's actions are determined on their own merits. This apparently would be the first for the Board's consideration in this area.

Ms. Madole asked if the Board could provide information as to where the nearest permits have been issued. Mr. Van De Wiele stated this is a relatively new issue with about ten coming before the Board in the last few months.

Ms. Madole stated that there is probably not enough data that has been collected or reviewed to show the impact of this change in use would be to the neighborhood. She is concerned that the houses will sit empty because she does not see a lot of demand in that area, and those houses sitting empty will have a detrimental impact on the area. Ms. Madole stated that she hopes the Board will not vote in favor of this request.

**Jim Neidermier**, 6001 South Quebec, Tulsa, OK; stated he lives in Holliday Hills and is before the Board in opposition to this application and the next application by the same applicant. The entire area is all single family residential and the houses for which the applications have been made do not abut any commercial areas. Mr. Neidermier read a letter that Mr. Walton has issued to the residents of the neighborhood. His major concern is that this will increase the flow of transient traffic whose character the neighbors will not know and not be able to discern. There will be an increase to traffic in an area which has children on bikes and skateboards. Tulsa is not fond of sidewalks and this neighborhood is no exception so if you are a kid you are going to be in the street. The safety of families is at stake. The preservation of a wholly contained

residential area is at stake. This use will change the character of the neighborhood and he stands in opposition to the request.

**Jeff Cowen**, 5927 South Richmond Avenue, Tulsa, OK; stated he lives almost across the street from the subject property. Mr. Cowen stated that he concurs with Mr. Glassco's and Mr. Neidermier's comments. Carnegie Elementary is in the neighborhood and probably one of the most sought after elementary schools in the district. This use will lose the ability for families to move into the neighborhood use the school system. Crime prevention and alertness and awareness are all topics in the community and the neighbors take it very seriously. Mr. Cowen presented pictures of different cars without out-of-state tags in front of the subject property with the pending hearing sign in the front yard. Mr. Cowen presented a petition with 137 names in opposition to the request.

**Holly Luller**, 4114 East 59<sup>th</sup> Place, Tulsa, OK; stated she lives about a block from the subject property. Her concerns are for the children of the neighborhood. Airbnbs and companies like it are loop holes for sex offenders and criminals, allowing them into a neighborhood while sheltered with privacy. A person can use a fake or stolen i.d. and criminals are good at this. The elementary school is two blocks away as is the middle school and the high school being two blocks away. Children walk home by themselves every day. Unfortunately, sex trafficking has become a growing problem in Oklahoma according to all the news channels. Sex offenders can stay in a community in these houses with several small children and an elementary school with no management present, no supervision or witnesses. This would open up the community and the children to strangers on a consistent basis. Currently there is uncontrollable crime the majority of the nights and days of the week. The neighbors have met with the local beat cops and the neighbors know and understand the lack of City resources to control the crime. By not allowing this bed and breakfast, and companies like it, in the neighborhood will truly help the residents to monitor and control future crimes. Ms. Luller stated she is opposed to this request.

Mr. Van De Wiele asked Ms. Luller if she was aware with the subject property, or any other bed and breakfast in Tulsa or elsewhere, being used for situations that she referred to. Ms. Luller stated that she does not. Ms. Luller stated the house was sold around March and the bed and breakfast is too new, but she has seen speeding down the street from cars with out-of-state tags.

**Don Davis**, 5649 South Pittsburgh Avenue, Tulsa, OK; stated he lives around the corner from the subject property. Mr. Davis presented information to the Board. He understands retirement and that this is a large investment on the applicant's part, and they certainly have a right to make money in their retirement and supplement their income. However, the house he lives in is his home and that is his only investment. Mr. Davis read an article written September 7, 2016 from the Washington Post and Mr. Davis stated that last paragraph of the article states his argument against granting Special Exception in regard to the applicant's two properties. Mr. Davis also referred to the Board of Adjustment minutes draft copy for July 25<sup>th</sup> on another piece of property

where a request was denied to permit a bed and breakfast with the motion made by Mr. White and a vote of 3-0-0. In those minutes, Mr. White stated that he was concerned about the application being injurious to the neighborhood. A decision has been made even though the Board states that they take each case on its own merit he feels that same injury will apply to the neighborhood.

**Bruce Hill**, 4370 East 57<sup>th</sup> Place, Tulsa, OK; stated he lives in the middle of Holliday Hills and he purchased his house in 1980. He is concerned about this request. The property is still zoned R-3 and the proposed use according to the permit is not an allowed use under that specific code. He is also concerned about Code Enforcement. The neighbors not only have to be concerned about what might happen they should be concerned about what will happen in the future if this request is granted. The house immediately next door to him has a business being operated out of it, an eyelash business, and upon reporting it to Code Enforcement has not done one thing in a year and a half. Mr. Hill stated that he is tired of the cars and tired of the people. There are serious problems in the neighborhood because of the street size and the lack of sidewalks. The neighbors should be concerned about what will happen if the permit is violated which has already happened because the applicants are already using the property for the proposed use without any permits. The City has not issued a fine and has not issued a citation of any kind. The applicant came into the neighborhood to take advantage of the good things in the neighborhood to make money for their retirement. There is not history as to how this could affect market value of the houses, but in his opinion, this will affect the property values of the neighborhood. The applicant is not a neighbor and they are not contributing to the overall reputation of the neighborhood, and the neighborhood reputation will be dramatically affected if this allowed. Mr. Hill asked the Board to allow this request.

**Terry Gilliland**, 5867 South Richmond, Tulsa, OK; stated he has lived in the neighborhood for 34 years and he is across the street from the subject property. Mr. Gilliland stated that he is a commercial real estate appraiser and has been in the real estate business for 42 years. One of the things that the Tulsa Zoning Code does well is that it consolidates like uses in different areas of compatibility. This type of use should be moved to the arterials and the outsides of the neighborhood, not right in the middle. This property is right in the middle of residential. Mr. Gilliland does not think there would be as much opposition if this request were on an arterial or next to a commercial zoned area. Mr. Gilliland stated the area already has a group home that is across the street from the subject property and there has been a lot of nuisances from it and this will just add to that burden. The group home was deemed to be residential use so there was not a lot of opposition but this request is commercial and there is a lot of opposition. Please don't let the convenient purchase of an investor plan the neighborhood. Mr. Gilliland stated that he has used Home Away and finds that the better ones are owner occupied. Mr. Gilliland presented his written information to the Board.

**Randy Smith**, 5932 South Richmond Avenue, Tulsa, OK; stated he agrees with the previous speakers. The one theme that is being heard today is that people have been in their homes for 30 or 40 years. This is truly a residential neighborhood. He helped in

gathering the 137 signatures and when 137 people come together in agreement should tell the Board this is not going to be a good scenario. This will change the neighborhood and that is what the neighbors must stop. This is a long term residential neighborhood and it needs to be protected.

**Rebuttal:**

**Donald Walton** came forward and stated that from a commercial to a private venture is simply the length and term of the stay. The house is going to be a long-term rental if it is not a short-term rental. If it is not an Airbnb it will still be a long-term rental. He tried the long-term rental and it is a horror story. There is no accountability. Airbnb has feedback. The guests are not child molesters, they are families who are here for family occasions. They have a family connection with Tulsa. They are not transients. They are not bums. If this request is denied as a short-term rental the house will become a long-term rental. Mr. Walton stated that he still wants to be a service to the community and still wants to be a part of the community. Mr. Walton stated that if he had wanted a commercial venture he would have purchased a hotel. He wants this to be a positive impact on the area, especially around St. Francis. The neighborhood is peaceful and quiet, and he wants to keep it that way. As long as there is accountability through the feedback mechanism he thinks it is a powerful force to make people act properly. Mr. Walton stated that he has never had any specific complaints from immediate neighbors about any of the guests and if there are he will address them immediately.

Mr. Van De Wiele asked Mr. Walton to explain to the Board what he means by a horror story on the long-term rental. Mr. Walton stated that he had a person referred to him by a friend and this person is a major league baseball pitcher. He was in town for the Christmas holiday to be with his family and he wanted to stay in shape while here. This person trashed the place because he was an overgrown kid who did not know how to act.

Mr. Walton stated that he is not going to go away and he will still be a neighbor. He hopes the residents of the neighborhood get to like him better.

**Comments and Questions:**

Mr. Bond stated that he sympathizes with Mr. Walton but 137 neighbors have spoken about this. This is a neighborhood which has deep community ties. There is no conceivable way in which he could support this application.

Mr. Flanagan stated that he believes the Board is at a disadvantage because this is so new in the City. The fact that he is there and takes good care of the property he could support the request.

Ms. Back stated that if this were on the outskirts or more on an arterial she thinks it is a use that she would be more apt to support. She sympathizes with Mr. Walton and the investment he has made. Ms. Back stated that she has had long term rental properties and there are good and there are bad renters. For this specific use and the way the Code is written she cannot support this request at this time.

Mr. Van De Wiele stated there are efforts and desires in the City to address this situation.

Ms. Miller stated that she just learned this morning that the City Council office will be organizing two town hall meetings to hear from the Airbnb hosts and to hear from the neighborhoods with their concerns. Mr. Van De Wiele stated that he had been asked by one of the City Councilors for his input on these requests.

Mr. Van De Wiele stated that the bed and breakfasts requests he has been able to support are an owner that is either on site or next door or a relative living next door or on the fringe of the property. The case heard earlier is a property that he believes are more difficult to sell because there is less interest in the house becoming someone's long term home. This house is in the middle of a neighborhood and as far as the restrictive covenants this Board does not address or enforce restrictive covenants, that is a private matter between owners of similarly situated property. The Airbnbs do tend to chip away the effectiveness and the usage of the institutions that the City and County have put a lot of money and effort into, i.e., the school in the subject neighborhood. Mr. Van De Wiele stated that for those reasons he cannot support this request.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 3-1-0 (Back, Bond, Van De Wiele "aye"; Flanagan "nay"; "abstaining"; White absent) to **DENY** the request for a **Special Exception** to allow a Bed and Breakfast (Airbnb) in the RS-3 District (Section 5.020). The Board finds that the requested Special Exception is not in harmony with the spirit and intent of the Code and would possibly be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**LT 13 BLK 15, HOLLIDAY HILLS ADDN B21-29, HOLLIDAY HILLS ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**22324—Donald Walton**

**Action Requested:**

**Special Exception** to allow a Bed and Breakfast (Airbnb) in the RS-3 District (Section 5.020). **LOCATION:** 4411 East 59<sup>th</sup> Place South (**CD 9**)

**Presentation:**

**Donald Walton**, 36020 East 142<sup>nd</sup> Street South, Coweta, OK; stated this property is very similar to the previous property he requested a Special Exception for. Mr. Walton asked if there was any specific zoning requirement for a rental property versus a residential property when the owner lives there.

Mr. Van De Wiele asked Mr. Walton if he was referring to a long-term situation. Mr. Walton answered affirmatively. Mr. Van De Wiele stated that if it is a rental longer than

30 days there is not. Mr. Walton stated that is what it is going to be because he guesses it is a foregone conclusion that this will be the same fate as the other property. It is a shame because his whole focus on this neighborhood was St. Francis.

**Interested Parties:**

**Randy Smith**, 5932 South Richmond Avenue, Tulsa, OK; stated there are a number of houses that started out as rentals but are now owned by the renters. There are options in the neighborhood and the neighbors would like to be involved in helping to resolve this situation if possible.

**Bruce Hill**, 4370 East 57<sup>th</sup> Place, Tulsa, OK; stated that he would request that what was said in regard to the previous case be applied to this case since they are in the same neighborhood.

Mr. Van De Wiele asked the audience to show hands if their comments in the last case would be the same in this case. Several audience members raised their hands.

**Charles Teague**, 4418 East 59<sup>th</sup> Place, Tulsa, OK; stated he lives across the street from the subject property. It is his understanding that there has been no approval from the Board to operate a bed and breakfast from that house and he has seen it under operation. Mr. Teague stated that the applicant lives in Coweta so he is not there to supervise his guests at that house. This is something that we as neighbors do not appreciate.

**Donald Davis**, 5649 South Pittsburgh Avenue, Tulsa, OK; stated that Mr. Walton had stated that 50% of the houses in the neighborhood are rentals and he wants the Board to know that is an absolute falsehood.

**Rebuttal:**

**Donald Walton** came forward and stated that it may not be 50% in some places but it is 50% in others. He owned another property on 53<sup>rd</sup> Street and every house, except for one, was a rental. Mr. Walton stated that he signed no covenants when he purchased the house, so if the covenants exist he is not a party to it.

Mr. Van De Wiele stated that covenants travel with the real estate agent and are very likely in the abstract. Mr. Walton stated that they would have been pointed out if they were. Mr. Van De Wiele stated that he is not offering any legal advice but he guesses that they were referred to in the title insurance policy when the property was purchased.

**Comments and Questions:**

Ms. Back stated that per the current Zoning Code a long-term rental does not necessarily mean an annual rental, it means 30 days or longer. If Mr. Walton did want to approach the hospital about guests looking for a long-term rental he would need to keep in mind the rental must be 30 days or longer.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 3-1-0 (Back, Van De Wiele, White "aye"; Flanagan "nay"; "abstaining"; Bond absent) to **DENY** the request for a **Special Exception** to allow a Bed and Breakfast (Airbnb) in the RS-3 District (Section 5.020). The Board finds that the requested Special Exception would not be in harmony with the spirit and intent of the Code and could possibly be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**LT 12 BLK 17, HOLLIDAY HILLS ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**22326—Mary Christian**

**Action Requested:**

**Special Exception** to allow a carport in the street yard area and allow the area of the carport to exceed 400 sq. ft. (Section 90.090- C.1). **LOCATION:** 711 South Allegheny Avenue **(CD 5)**

**Presentation:**

**Paul Christian**, 1873 East 46<sup>th</sup> Street North, Tulsa, OK; stated he would like to have the carport area exceed 400 square feet.

Mr. Van De Wiele asked Mr. Christian what his relationship is to the applicant. Mr. Christian stated he is the contractor.

Mr. Van De Wiele asked Mr. Christian if the carport was going to be wider than normal because of the width of the driveway. Mr. Christian answered affirmatively.

Mr. Van De Wiele asked if the carport is attached to the house. Mr. Christian 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, Bond, Flanagan Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **APPROVE** the request for a **Special Exception** to allow a carport in the street yard area and allow the area of the carport to exceed 400 square feet to allow 550.4 square feet (Section 90.090-C.1), subject to conceptual plans 7.7, 7.8, 7.9 and 7.10 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:

**LOT 3 BLK 24, WHITE CITY ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**22327—KKT Architects**

**Action Requested:**

Special Exception to allow a Community Center designated as a Public, Civic, and Institutional/ Government Services, Not Elsewhere Classified, in the CH/OL/IM/RM-3 zoning districts (Section 15.020, Table 15-2). **LOCATION:** 815 South Utica East (**CD 4**)

**Presentation:**

**Nicole Watts**, KKT Architects, 2200 South Utica, Tulsa, OK; stated this request is for an expansion to an existing facility with the same use. The expansion will be to the south into different zoning classifications. From the existing building there is going to be a walkway going south along Utica Avenue to a new building which will be a new basketball gym and some other facility classrooms.

Mr. Van De Wiele asked if the expansion was going to be on the hard corner. Ms. Watts answered affirmatively stating that it is shown on exhibit 8.11.

**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, Bond, Flanagan, Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **APPROVE** the request for a Special Exception to allow a Community Center designated as a Public, Civic, and Institutional/ Government Services, Not Elsewhere Classified, in the CH/OL/IM/RM-3 zoning districts (Section 15.020, Table 15-2). 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 BLK 1; LTS 1 THRU 4 & VAC UTICA PL ADJ ON E LESS BEG SWC LT 1 TH N200 E40 S160.92 SE8.49 S13.96 SE17.04 E76.80 NE7.07 S12 W140 POB FOR ST BLK 2, FARMER'S SUB L16 B3 CLOVER RIDGE ADDN, FERRELL ADDN L15 B3 CLOVER RIDGE ADDN, TULSA RECREATION CENTER FOR THE PHYSICALLY LIMITED, CLOVER RIDGE ADDN, City of Tulsa, Tulsa County, State of Oklahoma**



## **22328—Tom Daman**

### **Action Requested:**

Special Exception to allow a Commercial/Assembly Indoor Entertainment use (large capacity over 250) to be located in a CS District to allow a health club (Section 15.020). **LOCATION:** 3138 South Garnett Road East (**CD 6**)

### **Presentation:**

**Tom Daman**, 3052 North Aspen, Broken Arrow, OK; stated the subject site is located in a strip shopping center in a corner and it abuts a Walmart Neighborhood Market. The former use was an education facility, it is an end cap and about 18,850 square feet. The proposed use is a health club.

Mr. Van De Wiele asked Mr. Daman if he knew what the hours of operation would be. Mr. Daman stated that he did not know but that it will not be a 24-hour facility.

### **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, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White "absent") to **APPROVE** the request for a Special Exception to allow a Commercial/Assembly Indoor Entertainment use (large capacity over 250) to be located in a CS District to allow a health club (Section 15.020). 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 LESS BEG SWC LT 4 TH W177 N215 E177 S215 POB BLK 1, VALLEY GLEN SOUTH, 3100 GARNETT SQUARE, City of Tulsa, Tulsa County, State of Oklahoma**

## **22329—Eller & Detrich – Andrew Shank**

### **Action Requested:**

Special Exception to permit a Residential Treatment Center in a CH District (Section 15.020, Table 15-2); Verification of the 2,640 feet spacing requirement between residential treatment and similar uses (Section 40.130-B). **LOCATION:** 6126 East 32<sup>nd</sup> Place South (**CD 5**)

### **Presentation:**

**Andrew Shank**, Eller & Detrich, 2727 East 21<sup>st</sup> Street, #200, Tulsa, OK; stated the Special Exception is to be able to operate the CALM Center; it is classified in the Code

as a residential treatment center. It previously received approval from the Board of Adjustment for operation in 2007 and it has been operating ever since. When it came time for the capital improvements to add approximately 1,300 square feet to the building it was brought to the center's attention that the Special Exception had lapsed. The CALM Center provides a safe environment for children to less impacted by community or family stressors. The perspective the center provides is clinical feedback and perceptions from experienced team members, physicians, nurses, and therapists regarding the client's mental health diagnosis and future needs. This is a short-term crisis stabilization use and is a very important use to the City and the State. Mr. Shank stated there was a letter sent out inviting all the neighbors to come to a meeting and no one came. Several letters of support were mailed in. To address the previous conditions of approval, obviously, Mr. White mentioned in the last case that five years was a great to prove a record and Mr. Shank thinks there is no doubt that the record has been proven; the center is a part of the neighborhood and not injurious to the neighborhood so he would request no time limitation. There is a 15-bed maximum and that is how the center has always operated. The center is licensed by DHS and what DHS requires is therapeutic options training. That training much of the same thing that CLEET training does.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **APPROVE** the request for a **Special Exception** to permit a Residential Treatment Center in a CH District (Section 15.020, Table 15-2), subject to conceptual plans 10.12, 10.13 and 10.14. The facility is to have a 15-bed maximum and a 20-year time limitation for the Special Exception. 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. 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 residential treatment center subject to the action of the Board being void should another conflicting use be established prior to this residential treatment center; for the following property:

**LT 5 BLK 2, MARSHALLTOWN CTR RESUB PRT SHERIDAN CIRCLE & LORRAINE HGTS, City of Tulsa, Tulsa County, State of Oklahoma**

## **22330—Mohammad Ashad**

### **Action Requested:**

Variance to reduce the street (rear) setback from South Sheridan Road (Section 5.030). **LOCATION:** 8312 South 65<sup>th</sup> Place East (CD 8)

### **Presentation:**

**Kenny W. Martin**, 411 North Forrest Street, Jenks, OK; stated there are five lots in the Crescent Court Subdivision out of 102 lots that back up to Sheridan. With the cul-de-sac incursion there is a 35-foot rear yard setback as opposed to a 20 or 25-foot setback, allowing approximately 49 buildable feet of space. He is requesting for a reduction of the 35-foot building setback to 26 feet because the house has a three-car garage.

Mr. Van De Wiele asked Mr. Martin how close to the rear property line was his proposal. Mr. Martin stated the request is for a 26-foot rear yard setback as opposed to a 35-foot setback. Mr. Van De Wiele stated that if he is reading the site plan correctly there is a 24-foot setback, so which is it to be 24 or 26 feet? Mr. Martin stated the measurement is actually 26 feet and the request is actually for a 24-foot building line.

### **Interested Parties:**

**Herbert Orr**, 8236 South 68<sup>th</sup> East Avenue, Tulsa, OK; stated he is the current HOA president for Crescent Ridge and represents 305 homes. The architectural committee has rescinded their permission for the building of this house because the plans have been changed offsetting the way they were planning the house; it will actually upset the whole aesthetics of the community and can't be allowed. There is a continual theme throughout the HOA and there are certain requirements that must be complied with. The entire HOA is presently opposed to this building.

**Jeffery McMains**, 8306 South 65<sup>th</sup> East Place, Tulsa, OK; stated he lives north of the subject property. The property has been empty for two years and there was an elm tree there that was approximately 100 years old. The tree was cut down about a year ago and the property sat empty so the community is anxious to have the family move and take care of the property. Mr. McMains opposes the requested setback because it is 33% of what the City allows which is significant. If this request is allowed it would significantly impede his view to the west and to the south of his property. He believes if the house were redesigned the spacing requirements for the house could be met for the covenants.

**Joe Durat**, 8316 South 65<sup>th</sup> East Place, Tulsa, OK; stated he lives on the south side of the subject property. His concern is access by emergency responders. If the setback is going to be farther back than the house to the north of it, will responders be able to get to the back because there is a wall and a row of trees with a real narrow access between the houses. If emergency responders or utility crews had to get into the back of the subject house would they need to access it from his yard or the neighbor's yard? If that happens who would be responsible for any damages that may occur? If this is approved will it have an impact on the property values in the neighborhood.

Mr. Van De Wiele asked Ms. Miller if all departments weighed in on a building permit in regard to Mr. Durat's concerns? Ms. Miller thinks they do but she is not positive.

Mr. Van De Wiele asked Mr. Martin to come forward for his rebuttal and to state his hardship for today's request.

**Rebuttal:**

**Kenny Martin** came forward and stated that he was not aware that this proposal had not been approved by the HOA, but that will be addressed separately. The 17'-6" utility easement that is in the rear should be off the wall with 24 feet from the property to the building setback and that should be plenty of room for emergency responders. There is the required 10 feet on the north side and the required five feet on the south side which is no different than the other residences there. The hardship is a three-car garage for a 3,100-square foot house which takes up a significant portion and with the cul-de-sac it cuts down the north side building area significantly. The proposed house will not deter any property values in the area.

**Comments and Questions:**

Ms. Miller stated there is a list of items in the Code that are exempt from the setbacks. A covered patio is not one while a deck or patio is one.

Mr. Flanagan stated that he does not see any hardship that is not self-imposed and the HOA did not approve the plans but he could change his mind if he were convinced.

Mr. Van De Wiele stated that he understands that building on cul-de-sacs are more problematic than other lots. It seems like there is a lot of area in the front with the house being pushed to the north into the back yard more than would be required. Mr. Van De Wiele stated that he too is having a difficult time finding a hardship.

Ms. Back stated a possible hardship could be that he has a 25-foot building line off Sheridan Road in the back and he has a portion of the cul-de-sac on the front. However, she does agree the house could have been designed to fit the lot better.

Mr. Bond stated this is an awkward shaped lot and the house is squeezed in there. He would feel more comfortable about supporting the request if the HOA was on board with the proposal. Mr. Bond suggested the applicant continue his case and meet with the HOA to see if an agreement could be reached.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White absent) to **CONTINUE** the request for a **Variance** to reduce the street (rear) setback from South Sheridan Road (Section 5.030) to the October 10, 2017 Board of Adjustment meeting; for the following property:

**LT 2 BLK 1, CRESCENT, THE, City of Tulsa, Tulsa County, State of Oklahoma**

## **22331—Jack Arnold**

### **Action Requested:**

Variance to reduce the front (street) setback to 25 feet along East 30<sup>th</sup> Place to permit an addition to the existing home (Section 5.030). **LOCATION:** 1630 East 30<sup>th</sup> Place South (CD 4)

### **Presentation:**

**Jack Arnold**, 7310 South Yale, Tulsa, OK; stated this is a non-conforming lot that is peninsula shaped. The house, when purchased, had a pool in the back yard and was set to the rear setback line. On the east side of the lot there is a 25-foot sanitary sewer easement and the only place the house can be expanded is toward the front. Mr. Arnold stated that he has spoken with all the neighbors and showed them images of the proposal and there has been great support. The expansion is going to have a plate line of about nine feet so it will not empower over the neighbors or the street.

Mr. Van De Wiele asked Mr. Arnold if the only part of the expansion over the 35 foot is the triangular pieces on the north side of the house. Mr. Arnold answered affirmatively. Mr. Van De Wiele asked the portion of the house that is over the 35-foot line is one story. Mr. Arnold answered affirmatively while the main house is two-story.

### **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, Bond, Flanagan, Van De Wiele "aye"; no "nays"; "abstaining"; White absent) to **APPROVE** the request for a Variance to reduce the front (street) setback to 25 feet along East 30<sup>th</sup> Place to permit an addition to the existing home (Section 5.030), subject to conceptual plan 12.9 of the agenda packet. The Board finds the hardship to be the fact that the property is an oddly shaped lot. The new addition of the house will be a single-story structure and the single-story portion applied only to the portion that is beyond the 35-foot building setback. 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:

**N32 LT 6 & ALL LT 7 & W25 LT 1 LESS W25 S43 LT 1 BLK 3, AVALON PLACE,  
City of Tulsa, Tulsa County, State of Oklahoma**

**22334—Wallace Engineering – Jim Beach**

**Action Requested:**

Special Exception to allow an outdoor assembly use in CH zoning (Section 15.020, Table 15-2). **LOCATION:** SW/c of South Trenton Avenue East and East 3<sup>rd</sup> Street South (CD 4)

**Ms. Back recused and left the meeting at 3:08 P.M.**

**Presentation:**

**Jim Beach**, Wallace Engineering Company, 200 East Brady Street, Tulsa, OK; stated this request is for the Church Studio which is an iconic building that goes back many, many years and represents a lot of history in the music culture in Tulsa. This building was recently placed on the National Historic Registry and is currently being remodeled with an expansion. The expansion space will have a small platform and used for an informal gathering place where musicians can jam. It is primarily an incidental and an occasional space not a space designed for gathering specifically or where concerts will be held.

**Interested Parties:**

**Larry Jenkins**, 8835 South 74<sup>th</sup> East Avenue, Tulsa, OK; stated he has been the caretaker for the Church Studio for the past year. This will be a great bogey for the City and the neighborhood.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 3-0-1 (Bond, Flanagan, Van De Wiele "aye"; no "nays"; Back "abstaining"; White absent) to **APPROVE** the request for a **Special Exception** to allow an outdoor assembly use in CH zoning (Section 15.020, Table 15-2), subject to conceptual plan 15.11. 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:

**LTS 1 & 2 BLK 5; LTS 3 & 4 BLK 5, MIDWAY ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**Ms. Back re-entered the meeting at 3:12 P.M.**

**22332—Ryan Strode**

**Action Requested:**

Variance to allow more than a 25% coverage in the rear setback; Variance to allow a detached accessory building to exceed one story, exceed 18 feet in height and 10 feet at the top of the top plate; Variance to increase the permitted size of a detached accessory building to 2,070 square feet (Section 45.030). **LOCATION:** 214 East Woodward Boulevard South (CD 4)

**Presentation:**

**Ryan Strode**, 4329 East 56<sup>th</sup> Place, Tulsa, OK; stated he is the designer of the project. The existing garage was built in 1927 that needs to be torn down and is not usable for the current vehicle sizes. The existing garage is located in the easement for utilities in the rear. The new proposed structure is a four-car garage with a second floor added to it and that is a little larger than the existing footprint of the existing garage. The second floor of the new garage is proposed to have space for a future care taker or family.

**Interested Parties:**

**Stephen Schuller**, 1100 OneOk Plaza, 100 West 5<sup>th</sup> Street, Tulsa, OK; stated he is before the Board on behalf of four individuals; two residents of the house immediately to the east of the subject property and two residents of the house immediately to the west of the subject property. Mr. Schuller asked the Board to refer to page 13.4 of the agenda packet as a guideline for his presentation. The subject property is almost a perfect rectangle; 100 feet in width and 130 feet deep so it exceeds the RS-2's minimum lot area by 4,000 square feet or about 40%. The literal enforcement of the Zoning Code provisions in this instance are indeed necessary to achieve their intended purposes. RS-2 zoning is to provide an increased separation of structures from lot to lot with increased open space especially in the rear. This limits the applicants to covering a full 25% of the rear yard setback area should be more than sufficient for their purposes on a lot as large and easily developable as this one. The lot is large enough to expand their residence. The Variances requested are not the minimum Variances

that will afford relief because no Variances are necessary. The applicants do not need the Variances to build a one-story garage. The applicants do not need the Variances to add sufficient living area to their house on 3/10-acre lot. The applicants have disclosed to their neighbors their intentions to do just that. The subject property already contains enough area to permit the expansion of the house to provide sufficient space for an additional living area as shown on the site plan. The proposed Variances will alter the essential character of the neighborhood and they will permanently impair the use of the adjacent property. Two story garages are common in this part of Tulsa but there are none quite as large as the proposed garage. Mr. Schuller had pictures placed on the overhead projector showing different views from the neighbor's houses. The structure that is proposed is going to tower over the next-door neighbor. The proposed height of the top plate is more than 17 feet exceeding the maximum by 70%. The top of the two-story structure below the roof will be three times as tall as the privacy fence that separates the applicant's property from the next-door neighbor. The neighbors are concerned that the size of the structure as it covers the rear lot will worsen the water and silt runoff that already exists. All the facts that are required by the Zoning Code to be shown to approve the Variances have not been established. There is nothing physically unique about this oversized rectangular lot in a neighborhood full of same kind of lots that justifies the Variances. There is no hardship to the applicants that justifies their erecting this extraordinarily tall garage with a full apartment on top of it other than the applicant's imagination that their more than 4,500 square foot house on 3/10 of an acre with enough land to build a garage that wouldn't require a Variance is nothing other than a self-imposed hardship. There is nothing especially unique to justify the Variances in the rear yard for an accessory building nearly as tall as three stories to loom over the neighbor's property. The proposed Variances do impair the spirit, purposes and intent of the Zoning Code and his clients ask that they all be denied.

Mr. Bond asked Mr. Schuller if the neighbor's house was unique compared to the other Maple Ridge houses. Mr. Schuller stated the is not any more unique than any other houses in the neighborhood. The neighborhood is interesting in that the houses are unique in many respects. It developed and evolved over a long period of time and the architecture styles are different but none of them are particularly unique. The concern is more the physical characteristics of the lot and the subject lot has nothing unique.

**Richard Lowry**, 211 Sunset, Tulsa, OK; stated that his property is to the south of the subject lot and is approximately five feet lower in elevation than the subject property. He purchased his property recently and when he did he presented a certified survey to his neighbors because he had plans for the property. He built a fence to provide privacy and security. The proposed structure is in excess of 18 feet and he would like to know how much more in excess it is. Should this be approved he has concerns about the runoff and the proposed garage with the 2,000-square foot apartment would totally negate the fence because it will tower over his property allowing anyone in there to look down on the property.

**Yolanda Lennart**, 221 Woodward Boulevard, Tulsa, OK; stated she lives directly across the street from the subject property. The house to the west of the subject



property is a single-story dwelling. The proposal is not in keeping with most of the houses in the neighborhood. The apartment that is being proposed for over the garage is not a 2,000-square foot apartment; the 2,000 square feet encompasses a four-car garage as well as the apartment. Ms. Lennart stated that she has a free standing multi-car garage that is original to the house and it has a 900-square foot apartment above it with a full kitchen, a bath, a living/bedroom combination. The house directly to the east has a free standing multi-car garage with an apartment above it and it has been rented out a number of times. The applicants are very proud of their house in the neighborhood and they have tried to everything they can to stay within the confines of what most of the neighbors want. Ms. Lennart stated that she believes very little of this proposed garage will be viewed from the street and she has not seen any evidence that makes her think there would be more of a drainage problem than there is now. Ms. Lennart thinks the addition would be a definite improvement to the property and to the neighborhood. Ms. Lennart stated she is in favor of the request.

Mr. Van De Wiele announced that he must take a leave of absence from the meeting to attend a meeting that cannot be postponed upstairs.

**Mr. Van De Wiele left the meeting at 3:33 P.M.**

**Board Action:**

On **MOTION** of **BOND**, the Board voted 3-0-0 (Back, Bond, Flanagan "aye"; no "nays"; no "abstentions"; Van De Wiele, White "absent") to **TABLE** this item to the end of the agenda to allow Mr. Van De Wiele time to return from his meeting upstairs; for the following property:

**E 50 LT 1 W 50 LT 2 BLK 4, SUNSET PARK AMD, City of Tulsa, Tulsa County, State of Oklahoma**

**22335—John Watchous**

**Action Requested:**

Special Exception to permit a Trucking and Transportation Terminal in the CS District (Section 15.050). **LOCATION:** 2500 North Sheridan Road East (**CD 3**)

**Presentation:**

**John Watchous**, 1240 South Florence Avenue, Tulsa, OK; stated he is a real estate broker and represents John Sharp, the owner. The proposal is to allow warehousing for trucking and transportation for a national food distribution company. The property is currently zoned CS and the use is allowed in higher intensity zonings. The site is 1.63 acres with a hard surface, totally fenced, security pole lighting and the only improvement on the site is a 1,107-square foot office building which will be occupied by

the tenant. The property is currently being cleaned up and undergoing some minor repairs which improve the aesthetics as the building has been vacant for over ten years. There are no plans to add additional structures to the site. The property boundary to the south is Highway 11, to the north there is industrial light and industrial medium, and to the northeast is the airport with industrial light and industrial medium zonings.

Mr. Flanagan asked Mr. Watchous if the subject property is currently vacant. Mr. Watchous answered affirmatively and stated that there is a lease currently under negotiation.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 3-0-0 (Back, Bond, Flanagan, "aye"; no "nays"; no "abstentions"; Van De Wiele, White "absent") to **APPROVE** the request for a **Special Exception** to permit a Trucking and Transportation Terminal in the CS District (Section 15.050), subject to conceptual plan 16.12 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:

**ALL BLK 1 LESS S33.9 THEREOF & A TR BEG NEC NE TH W180 S150 E180 N150 POB LESS N40 & E50 FOR ST SEC 27 20 13 1.63ACS, HAPPY HOMES ADDN AMD, City of Tulsa, Tulsa County, State of Oklahoma**

**The meeting went into recess while waiting for Mr. Van De Wiele's return. Mr. Van De Wiele re-entered the meeting at 3:54 P.M. and Case #22332 resumed.**

**22332—Ryan Strobe**

**Action Requested:**

Variance to allow more than a 25% coverage in the rear setback; Variance to allow a detached accessory building to exceed one story, exceed 18 feet in height and 10 feet at the top of the top plate; Variance to increase the permitted size of a detached accessory building to 2,070 square feet (Section 45.030). **LOCATION:** 214 East Woodward Boulevard South **(CD 4)**

Mr. Bond informed the audience that the case being heard is a Maple Ridge issue and he is the past president for the neighborhood association. He believes he can look at

this subjectively. He can see issues with both sides right now. If anyone has a problem with this he does not have a problem with it and he will recuse. No one had anything to say.

**Interested Parties:**

**Larry Brumbaugh**, 204 Woodward Boulevard, Tulsa, OK; stated he lives in the house immediately west of the subject property. His house is the only single-story ranch house in the nearby area and built in 1939. There were three e-mails sent to Ms. Moye and those e-mails came from the neighbors that are immediately adjacent to the subject property and Mr. Schuller is representing part of that group. This structure being as large as is being described the description of "looming down" is a very apt description. Mr. Brumbaugh stated that he stands in opposition to the granting of this Variance.

**Brad Magill**, 222 Woodward Boulevard, Tulsa, OK; stated he lives in the house immediately to the east of the subject property and he has lived there for 36 years. He is not opposed to the applicants tearing down the existing garage and building a new garage, but he thinks the proposed structure is too big for the lot. Ms. Lennart earlier stated that she has a three-car garage on her lot but her lot is twice the size of the applicant's lot and her house is almost twice the size of the applicant's house, so her three-car garage is in proportion to her house and her lot. What is proposed by the applicant is too big and out of proportion to the house and the lot. The Maple Ridge is a mix of houses but everything is in proportion to the lot size. The proposed detached four car garage is there is no other four car detached garage in the Maple Ridge neighborhood. There are three car garages and there are a couple of four car garages but they are attached to the houses and those do not have an apartment above them. This would be the only four car detached garage with an apartment above it in the entire neighborhood. It is out of character with the neighborhood. This proposed garage is right on the lot line and it will tower over the neighbor's property.

**Carl Barnes**, 214 Woodward Boulevard, Tulsa, OK; stated the attorney for the Brumbaugh's and the Magill's stated the property does not have any uniqueness to prevent this, but he does not think he went to the subject property to see what the uniqueness might be. Mr. Barnes stated that he does have a hardship and that hardship is the way the house is positioned on the lot. In order to have the ability to turn a car into the garage the garage was built at an angle compared to the house which causes the garage to encroach upon the easement. In order to prevent encroachment on the easement the garage would need to be straightened out and would have to be moved forward north closer to the house again making a tight turn into the two east stalls of the four-car garage. Mr. Barnes stated that he does not think the Variance being requested will change the character of the neighborhood nor change the spirit of the Zoning Code. If the subject lot were wider and not as deep with the same square footage the garage would be within the 25% rear setback. This could be corrected if the proposed garage were moved one foot to the north and the garage would be in compliance but this make the structure less useful because of the tightness of the turn getting into the two stalls. Needs change over time. This is a house that was

positioned where it is and a garage that was built in 1927, and the unique position of the house is making a requested Variance reasonable and necessary. Mr. Barnes stated that he provided a number of photographs depicting a number of two story garages in the neighborhood. Mr. Magill has a two-story garage. The property directly behind the subject property has two story garages. The Brumbaugh's garage is not a two-story garage but it probably covers about 50% of the rear 25-foot setback. The garage may be grandfathered in but that is a lack of green space use that is there. It is very common in the neighborhood to have a two-story garage structure. Three houses to the east of the subject property, all three in a row, have a two-story garage. Four car garages are going to become more prevalent for the use needs that people have. Mr. Barnes stated that he has five cars and all are needed. It is not unreasonable to have a second floor to the garage, and he understands there are certain uses of that space that would not be permitted. Mr. Barnes stated that he has no plans to rent out the proposed garage apartment because he knows enough to know that he does not want a renter adjacent to his house. There is a planned expansion to the house and if the expansion is made the ratio would be under 40% if the small storage area were not above the workshop of the garage. Is that reasonable to ask for that storage area to be cut out of the garage when he has a need for storage because he stores professional records and has an extensive holiday decoration collection. The only window in the plans for the proposed garage on the backside is in the bathroom area which is planned to be opaque. There are two windows planned for the second floor that could view over into the Brumbaugh's house.

Mr. Flanagan asked Mr. Barnes if the neighbors are concerned over just the height and privacy. Mr. Barnes stated that based on the statement of "it would tower over them" a person could look out the windows into their backyard area. Mr. Flanagan asked Mr. Barnes if the neighbors would have an issue with the garage height if those proposed windows were removed. Mr. Barnes stated that he would like to have the natural light from the west and he could make them opaque windows also, but those windows would be no different than his residence windows and there is no complaint relating to those windows and the house has three floors. Mr. Barnes stated that he does not know that there is a legitimate concern over privacy because there has not been concern about that before. Mr. Barnes stated that the runoff water that was referred to is not runoff water, it is related to an errant sprinkler and that can be repaired. The proposed garage would not be increasing any runoff issue because the existing garage has no gutter control with a cement slab that has no runoff control. The neighborhood will only be able to see two cars and two stalls of the proposed garage because they can't see much of the existing garage now. The height issue is in conformity with many of the houses in the area. Mr. Barnes does not think this garage will detract from the nature of the neighborhood. The use of the second floor in the proposed garage will not be used as a rental unit but it will be used for storage and out of town relatives that visit. There will be a time that he and his wife either have to move out of their three-story house or they will need some assistance so they are planning ahead for that day. There are some realistic needs for the second floor on the proposed garage with some type of living quarters. It will not be used as a second residence nor will it be used for rental.

Mr. Van De Wiele asked Mr. Barnes how tall from the ground to the top of the peak is the current garage. Mr. Strode stood up and stated that he believes it is 16 or 17 feet because it is a high-pitched roof. Mr. Van De Wiele stated that he thinks the neighbors' concerns are more of the enormity of going upward rather than the actual replacement of the old garage. Mr. Van De Wiele asked for the hardship specifically for the need to go upward with the proposed garage, and why not do something more in the scale of the existing garage but with dormers such that the second floor is tucked in underneath the roof line so that it appears more one story than two story. Mr. Strode stated the reason it was decided to go up is because it was known that a Variance would be required so it was decided to go for the wish list so to speak. Building a garage style as suggested is a good option but there would still be a need for a Variance for the second floor, and it would cut down on the square footage and it is not very deep making the space upstairs very minimal. On the other hand, he trying to match the existing house and it is a high roof pitch.

Mr. Van De Wiele asked staff if this would be considered a second dwelling unit. Ms. Moyer stated that it would not be considered a second dwelling unit if a family member was staying in the apartment; it is allowed as long as it is not rented out to someone independent of the family.

Mr. Strode stated that in the permitting process the plan has passed all the permitting reviews other than the zoning.

**Rebuttal:**

**Ryan Strode** came forward and stated that he has lived in Tulsa for 35 years and has done a lot of work in this neighborhood, and he has current projects in this neighborhood. He has seen all the houses with two story garages and he loves classical architecture especially in this area. This plan is not out of character such as an art deco house or a gigantic structure that does not fit. The new garage looks exactly like the house and that was the purpose of it. The two-story garage fits in with the neighboring houses on the street and many streets around it so it not anywhere out of the ordinary. The garage apartment is to fit a need for the applicant's future use. It is nothing more than planning for their future and their family.

**Stephen Schuller** came forward and stated that when he was first engaged he requested a copy of the application from staff and they did so. Mr. Schuller stated he has never seen the photographs that Mr. Barnes stated he submitted. He was not aware of them. If he had been able to see them and anything else that was submitted and has not been furnished would not have changed his presentation. It would not have changed his opinion that there is not a physical uniqueness to this property to justify the Variances.

**Ryan Strode** the packet Mr. Schuller is referring to was submitted to the Board today; he was told he could bring the information to the meeting by Ms. Moyer. The application that was submitted had nothing but his application information and the drawings for the proposed garage.

### **Comments and Questions:**

Mr. Bond stated that in large swathes of the neighborhood it is more common to have a two-story garage with living quarters than it is to not have one. He can see where the angle of the present garage presents a hardship. Mr. Bond stated that where he is getting hung up is the height of the proposed garage.

Mr. Van De Wiele stated that certainly in the older parts of Tulsa, this being one of them, these garages rot out, burn down, trees fall on them, etc. and the Board sees these types of requests because a lot of the houses have detached garages jammed back in the corner of the lot and they violate a rear setback or a side yard setback. The Board is generally very forgiving and likely to approve the rebuilding of what was there with some moderate expansion to accommodate larger vehicles. To go from a two-car garage to a four-car garage it is more of a scale issue. That is an awfully big garage and as Mr. Strode stated it is going for the ultimate wish list. The storage needs would be self-imposed because there are storage alternatives if there is that much to stuff to store. Mr. Van De Wiele stated that his biggest issue is getting up to the 24 feet in height and the top plate of 17 feet.

Ms. Back stated that when a person moves into a neighborhood they know what they are getting, however, when there are different additions outside of what the Code parameters allow that is when the neighbors have their right to speak and voice their concerns. Ms. Back stated that she has a strong challenge with the hardship for the Variances. The house is large. The garage needs to be replaced if it is in disrepair but she does not think that it needs to be increased in size or scale. Ms. Back believes it would be injurious to the neighbors to have a large impending structure that is looking into the neighbor's properties. A hardship is not the fact that more space is needed; she understands the need for more space but that is not a hardship that the Board is able to make decisions by. She has not heard a hardship that would allow her to vote yes on this request.

Mr. Flanagan stated that these houses were built with detached garages and predate existing zoning laws. Mr. Flanagan gets the fact that a larger garage is needed because of today's cars. There has to be something that works for both sides.

### **Board Action:**

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Flanagan, Van De Wiele "aye"; no "nays"; no "abstentions"; White "absent") to **CONTINUE** the request for a **Variance** to allow more than a 25% coverage in the rear setback; **Variance** to allow a detached accessory building to exceed one story, exceed 18 feet in height and 10 feet at the top of the top plate; **Variance** to increase the permitted size of a detached accessory building to 2,070 square feet (Section 45.030) to the October 24, 2017 Board of Adjustment meeting; for the following property:

**E 50 LT 1 W 50 LT 2 BLK 4, SUNSET PARK AMD, City of Tulsa, Tulsa County, State of Oklahoma**

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**OTHER BUSINESS**

None.

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**NEW BUSINESS**

None.

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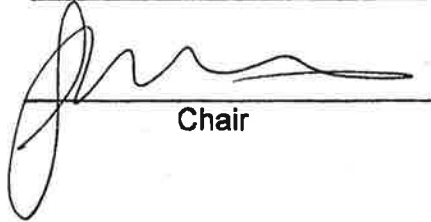
**BOARD MEMBER COMMENTS**

Mr. Van De Wiele stated that people have been reaching out to him regarding perspective applications and because this a quasi-judicial board those type of conversations would be highly inappropriate.

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There being no further business, the meeting adjourned at 4:40 p.m.

Date approved: 10/24/17

  
Chair