

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1246
Tuesday, March 10, 2020, 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 Bond, Vice Chair Ross, Secretary Radney	Shelton	Wilkerson Chapman Sparger K. Davis	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on March 5, 2020, at 9:53 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

Mr. Chapman read the rules and procedures for the Board of Adjustment Public Hearing.

MINUTES

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Shelton absent) to **APPROVE** the **Minutes** of the January 14, 2020 Board of Adjustment meeting (No. 1242).

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Shelton absent) to **APPROVE** the **Minutes** of the January 28, 2020 Board of Adjustment meeting (No. 1243).

NEW APPLICATIONS

22867—Hall Estill – Amanda Lowe

Action Requested:

Special Exception to permit carports in the street setback and street yard with modifications to the allowable height, width and length for carports in an R District (Section 90.090-C.1). **LOCATION:** 2302 & 2303 South 137th East Avenue (**CD 6**)

Presentation:

The applicant has requested a continuance to March 24, 2020.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-1 (Bond, Radney, Ross, "aye"; no "nays"; Van De Wiele "abstaining"; Shelton absent) to **CONTINUE** the request for a Special Exception to permit carports in the street setback and street yard with modifications to the allowable height, width and length for carports in an R District (Section 90.090-C.1) to the March 24, 2020 Board of Adjustment meeting; for the following property:

LT 3 BLK 1; LT 1 BLK 2, EASTLAND ACRES, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today. Most motions the Board makes will require an affirmative vote of three of the remaining four members. 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 may be present. Mr. Van De Wiele asked if there were any applicants 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.

UNFINISHED BUSINESS

22856—William Shirley

Action Requested:

Special Exception to permit low-impact manufacturing and industry use in a CG District (Section 15.020, Table 15-2). **LOCATION:** 1216 East Apache Street North (CD 1)

Presentation:

Bobby Woodard, 1927 North 24th West Avenue, Tulsa, OK; stated the request is to allow low impact manufacturing for medical marijuana. Mr. Woodard stated that he has his license from OMMA, and this is the last process to operate.

Mr. Van De Wiele asked Mr. Woodard what type of extraction was to be used at the site. Mr. Woodard stated that he will be baking cookies, gummies and suckers similar to cooking at home.

Mr. Van De Wiele asked Mr. Woodard if this cooking was done by using oils and extracts that are done elsewhere. Mr. Woodard answered affirmatively.

Interested Parties:

Joyce Brown, 2435 North Quaker, Tulsa, OK; stated she is in opposition to this request. She would have liked to hear more about the products and the THC content, but the bottom line is, they are illegal. She would hope the Board would take into consideration these type of products and the affect on individuals and the community. This is a community that already has a lot of adverse health issues in addition to having a mortality rate that is higher than the general population of Tulsa. Ms. Brown stated that these products are ones that can cause adverse health effects and the products can become habitual.

Mr. Van De Wiele asked Ms. Brown if she was speaking of the Federal illegality of the product versus the State approval of the product? Ms. Brown stated there are several levels of these substances and it is from several branches in regard to the Federal level. There is confusion about what the DEA does versus what the FDA does. Ms. Brown stated that what Mr. Woodard is talking about is more under the FDA, and if people suggest these products do certain things for health benefits all of the research is not complete for these products to be promoted in such manner.

Rebuttal:

Bobby Woodard came forward and stated he is a Pharmacist by law, and what he is doing is 100% legal by the law in the State of Oklahoma.

Comments and Questions:

Mr. Van De Wiele stated that the legality or the illegality of the products is not a zoning issue. The question the Board is being asked is whether the property is appropriate for a Special Exception to allow the types of uses that are allowable by a Special Exception

low impact manufacturing facility, not necessarily to regulate the products that are made at the facility.

Ms. Radney stated that from a zoning standpoint the use of this location is very similar to one the Board has approved. She does not see any reason why, from the standpoint of the previous decisions, the Board would not accept this application.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Shelton absent) to **APPROVE** the request for a **Special Exception** to permit low-impact manufacturing and industry use in a CG District (Section 15.020, Table 15-2), subject to conceptual plan 3.10. 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:

S175 LTS 15 & 16 BLK 2 & S175 W20 E200 N250 NE SEC 25 20 12 .08AC, EMERSON ADDN, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

22863—Zachary Perkins

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

LOCATION: 10121 South Sheridan Road East – ***Tenant Space: 6528 East 101st Street South, Suite G & H (CD 8)***

Presentation:

Nathalie Cornett, 2727 East 21st Street, Tulsa, OK; stated this is a spacing verification for a dispensary. A different unit in the shopping center was previously approved for spacing for the same applicant. The applicant has amended the lease to a larger space located elsewhere in the center, and that is why the applicant is back before the Board requesting a new spacing verification.

Mr. Van De Wiele asked Ms. Cornett if it was the same license but transferring to a new address. Ms. Cornett answered affirmatively and stated the license is in the process of being amended for the new address.

Mr. Van De Wiele asked Ms. Cornett if the space that was accepted for spacing verification is operating. Ms. Cornett stated that it is not; it did not open.

Mr. Van De Wiele stated the Board has the applicant's spacing exhibit shows that there is no other dispensary within the 1,000 feet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Van De Wiele "aye"; "nay"; no "abstentions"; Shelton absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary. The applicant is to provide evidence of the termination of the existing lease to INCOG; for the following property:

LT 1 BLK 1, VILLAGE SOUTH, City of Tulsa, Tulsa County, State of Oklahoma

22864—Charles Okyere

Action Requested:

Special Exception to increase the maximum driveway width within the right-of-way and on the lot in an RS-2 District (Section 55.090-F.3). **LOCATION:** 2518 East 26th Street South (**CD 4**)

Presentation:

The applicant was not present. Mr. Van De Wiele moved this case to the end of the agenda.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required at this time; for the following property:

PRT LT 6 BEG 90.2E NWC TH SLY115.8 E105 NLY113.6 W105 POB BLK 1, WOODY-CREST SUB, City of Tulsa, Tulsa County, State of Oklahoma

22865—Sandra Mora

Action Requested:

Special Exception to allow a fence to exceed 4 feet in height in a front street setback (Section 45.080-A). **LOCATION:** 2630 & 2634 East Archer Street North (CD 3)

Presentation:

Sandra Mora, 2630 East Archer, Tulsa, OK; stated she owns both properties and moved in 17 years ago. Ms. Mora stated she has been broken into 10 times in 17 years and she would like to have a tall fence for security.

Mr. Van De Wiele asked Ms. Mora how tall the fence is. Ms. Mora stated that it is five feet.

Mr. Van De Wiele asked Ms. Mora if the fence went all the way around the house. Ms. Mora answered affirmatively; it would be for the sides and front because there is a wooden fence in the rear.

Mr. Van De Wiele asked Ms. Mora if she has had any conversations with the neighbors. Ms. Mora answered no.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Bond does not see what a five foot does for security.

Mr. Van De Wiele stated that from a crime of convenience and opportunity it makes this property less attractive for those types of things than others.

Ms. Ross stated that safety and security is not under the Board's purview. She is torn about this request; she does not like the looks of it but having your house broken into 10 times over 17 years she too would want to take every safety and security measure possible. She does not think a five-foot chain-link fence is going to do much because people can climb those easily. Ms. Ross wondered if this would set a precedent for the neighborhood.

Mr. Van De Wiele stated that this would not be setting a precedent. To the extent that the Board were to approve this request he would say that it would have to either a chain-link or wrought iron fence because he would not approve a five-foot solid fence. From a security standpoint this fence is not Fort Knox, but it probably deters some degree of crime. He would tend to approve this request on an as built basis using that type of material. He would not support anything taller than five feet; one foot of the fence is the issue.

Ms. Radney stated she is not opposed to this in spirit. She acknowledges the concerns of the rest of the Board. She is familiar with the fact that this particular stretch of Archer is very highly trafficked by foot. There is a methadone clinic very close by and a lot of people that loiter and traverse between the park and the methadone clinic. She is not surprised about the larceny mentioned by the applicant. A little bit of height is just enough to dispel that crime of convenience. With no one in attendance from the neighborhood to object it she thinks this is what Special Exceptions are for, so she would be inclined to support the request.

Mr. Van De Wiele stated he does not know that he would say safety and security maybe rise to the level of a hardship request, but from a Special Exception standpoint he does not find this to be injurious to the neighborhood or detrimental to the public welfare. The minimal amount of excessive height that is being allowed he finds to be in the harmony with the spirit and intent of the Code.

Mr. Bond stated that he supports wrought iron fencing more because from a security standpoint they are a lot harder to scale. He thinks this Special Exception request should be for an articulated reason and he thinks it is injurious to the neighborhood.

Ms. Radney stated that she is less concerned about the aesthetics of this, she does agree that this type of fence is easier to scale. She is not sure the height is the deterrence; she thinks the deterrence is that it takes a little bit more time to get over it and then back over it with the pilfered goods. The people along this stretch of Archer are faced with a conundrum, because if they are going to make improvements to the property, they want those improvements to be secure. It is a balancing act between allowing the aesthetics of the community to continue to decline or hardening the approach to the house to preserve the investments. What we really want is for the character of the neighborhood and condition of the properties to increase over time, and that implies safety.

Mr. Van De Wiele stated the clear issue is the last foot of fencing.

Ms. Ross stated that she will vote in favor of this request, but it is against her better judgement. She does not like these and in this particular case she is wavering; but typically, she is of the same opinion as Austin she does not like fences in the front that are over four feet in height.

Ms. Radney stated she utterly has not objection to the fence, but she does respect the Board's opinion. The fence is appropriate for the value of the asset that is being protected. There are plenty of these fences that are not permitted in this neighborhood.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-0-1 (Radney, Ross, Van De Wiele "aye"; no "nays"; Bond "abstaining"; Shelton absent) to **APPROVE** the request for a **Special Exception** to allow a fence to exceed 4 feet in height in a front street setback (Section 45.080-A), subject to conceptual plans 6.4 and 6.5 of the agenda packet. The fence is

not to be constructed of any solid surface material and it should be maintained as presented as illustrated on page 6.4 and 6.5 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 4 BLK 1; LT 5 BLK 1, FAIRMONT ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Chapman informed Mr. Van De Wiele that the applicant for Item #5, Charles Okyere, has arrived.

22864—Charles Okyere

Action Requested:

Special Exception to increase the maximum driveway width within the right-of-way and on the lot in an RS-2 District (Section 55.090-F.3). **LOCATION: 2518 East 26th Street South (**CD 4**)**

Presentation:

Jose C. Relafuente, 2518 East 26th Street, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Mr. Relafuente how wide the driveways are, that were built, and how much do they exceed the allowable under the current City Code. Mr. Relafuente stated he did not bring the plans with him.

Mr. Van De Wiele asked Mr. Chapman to explain how much driveway is allowable for the subject lot; how many driveways and how wide may they be, total. Mr. Chapman stated for the width of the lot the owner is allowed 27 feet within the right-of-way and 30 feet on the lot; the curb cuts are limited to 27 feet. Mr. Van De Wiele asked Mr. Chapman if there was a limitation to the number of curb cuts. Mr. Chapman answered no, but the width is in the aggregate of all curb cuts. Mr. Van De Wiele stated that what he sees on the diagram in the agenda packet is 40 feet, plus or minus, on the lot and 44'-4" at the curb line.

Mr. Van De Wiele asked Mr. Relafuente why he is 10 to 15 feet over the allowable, and why the application for the Special Exception not submitted prior to construction? Mr. Relafuente stated he had a new construction permit, he measured for the three-car garage, and then the circle driveway was decided on.

Mr. Van De Wiele asked Mr. Relafuente if the width of the driveways were shown as one measurement on the permit and then widen in the field? Mr. Relafuente stated the plans were just the house and the three-car garage was not on the blueprints. The

distance from the house to the street is the same, and the driveway width was made for the three-car garage.

Ms. Ross asked Mr. Relafuente if he was the contractor. Mr. Relafuente answered affirmatively.

Ms. Ross stated to Mr. Relafuente that it is his job to know the Code and to tell people what can and cannot be built within the Code; he is not to just do what he is asked to do. Mr. Relafuente stated that is why he went to the permit department for the house only because the driveway is a different contractor.

Mr. Van De Wiele asked Mr. Relafuente if he hired the concrete contractor. Mr. Relafuente answered affirmatively.

Ms. Ross asked Mr. Relafuente if he was the General Contractor. Mr. Relafuente answered affirmatively. Ms. Ross stated that it is all on Mr. Relafuente. Mr. Relafuente stated he never pulled a permit for the concrete. Mr. Relafuente stated that he told the owner that he wanted to build the house, but obviously the house needed a driveway and he never asked for the blueprints for the driveway. He built the driveway for the three-car garage because he had to, and the issue is because of the width.

Mr. Van De Wiele stated that this is confusing because it has been heard that there were plans for the house but not plans for the concrete, and that is what he is trying to get to. Mr. Van De Wiele asked Mr. Relafuente if the plans submitted showed the concrete. Mr. Relafuente stated the architect never drew the concrete driveway. Mr. Van De Wiele asked Mr. Relafuente who came up with the plan that is in the Board's agenda packet. Mr. Relafuente stated the architect redid the drawing.

Ms. Ross asked Mr. Relafuente who the architect is. Mr. Relafuente stated that he did not know because the man that owns the house hired the architect.

Mr. Bond asked Mr. Relafuente if this was all new construction. Mr. Relafuente answered affirmatively.

Mr. Van De Wiele asked Mr. Relafuente if this site was a total tear down and rebuild? Mr. Relafuente answered affirmatively.

Mr. Van De Wiele asked Mr. Relafuente if the lot was a flat dirt lot or is, he improving a house that existed when he started building; is it a remodel or brand-new construction? Mr. Relafuente stated that it is a remodel. He tore down most of the house but did leave two rooms.

Interested Parties:

Chris Cox, 2536 East 25th Place, Tulsa, OK; stated he lives a block north of the subject site and has lived there since 2004. Mr. Cox stated he is a retired engineer from the City of Tulsa and has worked for another entity. Mr. Cox stated the neighborhood is

losing some of its identity due to massive amount of infill. Recently the City passed a change in the Code in regard to driveway widths which has helped tremendously. Mr. Cox stated the subject house on 26th Street started out as a flip and there was a wall and a chimney saved; he not sure what that has to do with permitting. He does not know if it is cheaper to have a remodel or to take a building down to dirt. Mr. Cox stated he saw the driveway being poured and realized that no other houses in the neighborhood, that have been infill, have this type of drive. Mr. Cox stated there are some houses that have circle drives, but they are corner a lot or the driveway has been grandfathered in. This appears to be the situation of it is better to ask for forgiveness than it is to ask for permission. In talking to Development Services, Bruce Robson, told him that a driveway permit was never asked for, and when they did ask for one the drawing looked like something from the back of a cocktail napkin. Mr. Cox stated that there is no need for a Special Exception because if the Code had been followed the applicant would not be here wasting the Board's time. Mr. Cox stated the driveway is injurious to the neighborhood because there is no need for this type of driveway at the subject site.

Rebuttal:

Jose Relafuente came forward and stated that in the beginning he wanted to build a driveway and only added a couple of feet to have a better width for the cars. He was just trying to do the job like what was in place before without any changes but there was a change by adding the circle driveway.

Ms. Ross stated that Mr. Relafuente is supposed to know the Code and she would be livid if she was the owner who hired a contractor who did not know simple zoning laws. This has been a major topic of discussion for the last two years. This neighborhood is a neighborhood where people do not like seeing massive infills come in, and that is one of the reasons for the driveway Code. The owner has now spent money and are probably will have to tear out the driveway.

Mr. Van De Wiele stated the Board has seen cases where there has been an issue through the permitting office, if the three-car circle driveway had been permitted he thinks Mr. Relafuente would be hearing a different discussion from the Board members. If the people in the Permit Office overlooked the fact that the driveway width was about 30% over in the width, he would probably have a more sympathetic ear but what he has heard is that there was never a permit pulled for the driveways.

Ms. Ross told Mr. Relafuente that if he is going to act as a General Contractor for people in the City of Tulsa and the surrounding areas, he needs to become familiar with the Zoning Code. He cannot just do whatever people want because they do not know either. It is Mr. Relafuente's job to know the Code. Ms. Ross stated she deals with contractors all the time; it is his job to know the Code. Mr. Relafuente stated he does go by Code, but he tried to improve the look because it does look better as it is now than to have one entrance for a three-car garage. Ms. Ross told Mr. Relafuente that is his opinion but there is an interested party here today objecting and she is surprised there

are not more in attendance today. Mr. Relafuente stated he goes by Code every single day and maybe he missed the driveway part, now he does not know what to do.

Ms. Radney stated there is too much curb cut and there is too much driveway, she asked Mr. Relafuente what is the property owner's preference? Mr. Relafuente stated the property owner would like to have the driveway as it is now. Ms. Radney stated the property owner cannot have that, so what would they like next? Mr. Relafuente stated that it would be whatever the Board says.

Mr. Relafuente stated that concrete had already been poured on the front when the Inspector came out and told him that he had to take everything out because there was no reinforce bar. He removed the concrete and placed the rebar down, and maybe that was the time to tell him about the concrete permit.

Ms. Ross told Mr. Relafuente that he was not going to place the blame on the City; something already had to be done over because the Code was not being followed.

Ms. Radney asked Mr. Relafuente if it was his goal to preserve the circle driveway? Mr. Relafuente stated that he would need to speak with the owner.

Mr. Van De Wiele asked Mr. Chapman where the measurement is taken for the width of the driveway on the lot. Mr. Chapman stated the driveway width is taken at the property and once the driveway is physically in the right-of-way the driveway cannot go beyond 27 feet. Mr. Van De Wiele asked Mr. Chapman if the important measurements are how wide the driveway is at the property line and at the curb line. Mr. Chapman answered affirmatively.

Comments and Questions:

Mr. Van De Wiele stated that he is reluctant to do is to engineer the driveway for Mr. Relafuente.

Mr. Bond agreed with Mr. Van De Wiele, and stated the Board has a request that he is prepared to vote to deny.

Mr. Van De Wiele stated the other option, rather than voting on something today, would be to continue this case so Mr. Relafuente can get with the architect, the homeowner, the concrete contractor and anyone else to have a plan that either reduces the driveway to within acceptable limits or close to that. To him the issue is more at the curb than it is at the property line.

Ms. Ross stated she is not in favor of granting relief; she would vote on a decision today.

Ms. Radney stated that she would be inclined to continue this case, in part because there is not a full Board today and the property owner is not in attendance today. She would like to be able to defer to the property owner's request.

Mr. Chapman informed the Board that it is his impression that the subject house is currently for sale; he believes it is a spec house.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-1-0 (Bond, Radney, Van De Wiele "aye"; Ross "nay"; no "abstentions"; Shelton absent) to **CONTINUE** the request for a Special Exception to increase the maximum driveway width within the right-of-way and on the lot in an RS-2 District (Section 55.090-F.3) to the March 24, 2020 Board of Adjustment meeting; for the following property:

PRT LT 6 BEG 90.2E NWC TH SLY115.8 E105 NLY113.6 W105 POB BLK 1, WOODY-CREST SUB, City of Tulsa, Tulsa County, State of Oklahoma

22866—Bruce Denny

Action Requested:

Variance of the dustless, all-weather surface requirement for an off-street parking area to permit a gravel drive (Section 55.090-F). **LOCATION:** 905 South Lynn Lane Road East (**CD 6**)

Presentation:

Bruce Denny, 905 South Lynn Lane Road, Tulsa, OK; stated he request is for a Variance for an existing driveway. Mr. Denny stated his property is surrounded by agricultural and there are some RS-1 large lots. There are several gravel driveways in the area, between Admiral and 11th Street there are 25 gravel driveways and 5 that are paved. Mr. Denny stated he has lived in his house since 1991 and the property is 2 ½ acres zoned AG; it is an old farm site. Mr. Denny stated the house was built in 1904 and there are outbuildings that date back to the 1930s, 1940s and the 1950s. What he is requesting is not a change because the gravel driveway exists. Two weeks ago, case BOA-22855 located at 14th and Lynn Lane, the Board approved a Variance for a gravel driveway, a taller and larger than usual building on an RS-1 lot. Mr. Denny thinks what he is asking for fits the area quite well. The hardship is that the driveway exists, and it is in good shape. Mr. Denny stated that he would like to have a 30 x 50 building at the end of the driveway for personal storage and his vehicles.

Mr. Van De Wiele asked Mr. Denny what caused the need for the Variance request. Mr. Denny stated that he received a Letter of Deficiency when he applied for a permit for the requested building.

Mr. Denny presented pictures on the overhead projector of his property and the surrounding neighbors.

Ms. Radney asked Mr. Denny if his driveway gravel goes all the way to the roadway or is there a dustless surface at the apron. Mr. Denny stated there is nothing there at the roadway.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Shelton absent) to **APPROVE** the request for a **Variance** of the dustless, all-weather surface requirement for an off-street parking area to permit a gravel drive (Section 55.090-F), subject to conceptual plan 7.10 of the agenda packet and the exhibits presented at today's meeting. In granting the Variance 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:

**W423.11 S/2 S/2 NW SW SW & W423.11 N94 SW SW SW SEC 1 19 14 2.515ACS,
City of Tulsa, Tulsa County, State of Oklahoma**

22868—Chase Healey

Action Requested:

Variance to allow a roof sign to be located on a building outside of the Downtown Entertainment District (Sections 60.020 & 60.080-B.5). **LOCATION:** 1702 East 6th Street South (CD 4)

Mr. Bond left the meeting at 2:22 P.M.

Presentation:

Chase Healey, 105 East 26th Place, Tulsa, OK; stated he would like to attach a roof top sign to his business located at 6th and Utica. The hardship for the request is the steep pitch of the roof and the building adjacent to the subject building prevents signage to be seen by anyone coming from 11th Street so they could identify the building.

Mr. Van De Wiele asked Mr. Healey what his sign says. Mr. Healey stated that it is "American Solera".

Mr. Healey stated the sign height is 3'-6". The sign will allow the building to be visible to people driving towards it and the sign will enhance the building.

Mr. Bond re-entered the meeting at 2:24 P.M.

Mr. Van De Wiele asked Mr. Healey how tall the extra featured gable. Mr. Healey stated that it is about two feet. Mr. Healey presented pictures from his cell phone on the overhead projector showing the building.

Mr. Van De Wiele asked Mr. Healey if the sign would be lit. Mr. Healey stated the sign will be lit from below. Mr. Van De Wiele asked Mr. Healey if the lights that are seen in the pictures are applied lights or is it glass? Mr. Healey stated that is an interior, the material is somewhat transparent similar to opaque glass.

Mr. Van De Wiele asked Mr. Healey why he didn't place traditional wall signage on the building. Mr. Healey stated that there is a former railroad spur between his building and Cabin Boys Brewery, which is next door, and the height of the brewery blocks the lower portion of his building so it cannot be seen.

Mr. Healey stated that his desire is to create a point of interest on the corner of like businesses in the area and dressing up the corner.

Mr. Healey stated that if a person stands on the corner of 11th and Utica, where the QuikTrip is located, the illuminated portion of the building can be seen. Mr. Healey also

believes the sign is in the spirit of what the City is trying to do with Route 66. The technicality of the fact that the building is not in the overlay of that is silly because the building can be seen very well, and he thinks the building adds to the interest of the area.

Mr. Bond asked Mr. Healey if his building entirely abuts the sidewalk on the north and west sides. Mr. Healey answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Bond thinks the hardship for this case is the visual acuity, the massive building and the fact that he would need to place signs on all sides of his building to be able to see it from a distance and that would blow his sign budget. It is a hardship the Board has granted for a lot of buildings downtown. Because this building abuts the sidewalk on all sides, he will not be able to install an external sign and that to him necessitates a hardship.

Ms. Ross stated that she does not where else a sign could be installed, there are so many windows and there is guttering on the building in several places.

Mr. Van De Wiele stated there is not an inherent right for a sign to be visible from an "x" distance away. There is no doubt if the building were in the downtown entertainment district or in the Route 66 overlay there would be some more leeway for signage.

Ms. Radney thinks the issue with the encroachment on the sidewalk and the interference of the utilities that are around on the west end and north side are valid points in terms of a hardship.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-1 (Bond, Radney, Ross "aye"; no "nays"; Van De Wiele "abstaining"; Shelton absent) to **APPROVE** the request for a Variance to allow a roof sign to be located on a building outside of the Downtown Entertainment District (Sections 60.020 & 60.080-B.5), subject to conceptual plans 9.9 and 9.10 of the agenda packet. The Board finds the hardship to be the unique nature of the sign, the unique restrictions, the utility signs, and the building location abutting the sidewalk. The sign is to be indirectly lit with up lighting and lighting that is not affixed to the sign lettering itself. In granting the Variance 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:

N90.5 W250 LYING N RR R/W LESS W33 FOR ST BLK 9, ABDO'S ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22869—Mark Capron

Action Requested:

Modification of the previously approved site plan for Union High School (BOA-22553); Special Exception to permit alternative compliance parking ratios in an AG/RM-1 District (Section 55.050-K) to reduce the required number of parking spaces for a high school use. **LOCATION:** 6636 South Mingo Road East **(CD 7)**

Presentation:

Mark Capron, Wallace Engineering, 123 North Martin Luther King Boulevard, Tulsa, OK; stated that what has changed about last year's application is the number of parking spaces. Another consultant reviewed the parking lot and arrived at a different solution that improves the circulation, improves the aesthetics but it does not have the same number of parking spaces. There is enough parking for the students and there is also the ability to provide for event parking with some agreements with surrounding parking areas.

Mr. Van De Wiele asked Mr. Capron what the previous parking count was and what is that number being reduced to. Mr. Capron stated the previous count 1,527 and the count now is 1,385 for a reduction of 138 spaces or less than 10%.

Mr. Van De Wiele if this was just the student parking lot or is it also the faculty parking lot? Mr. Capron stated that it is just student parking during a school day. Mr. Van De Wiele asked Mr. Capron what the current student load count is for the 10th, 11th and 12th grades. Mr. Capron deferred to Mr. Bushyhead.

Interested Parties:

Charlie Bushyhead, Union Public Schools, 8506 East 61st Street, Tulsa, OK; stated there are 605 parking permits issued to students, so during the day students are in the south lot and a few faculty that park for the UMAC.

Mr. Van De Wiele asked what the typical graduating class size is. Mr. Bushyhead stated that it is about 1,100. There are about 3,500 children on the campus. Over the years the parking permits have reduced because there are more students that cannot afford a vehicle.

Ms. Radney asked Mr. Capron about the improvements to the circulation. Mr. Capron stated the original design approved last year, there was a north/south access point and what is there now is an access that goes to the main part of the building. There is curved parking with additional landscaping. There is also a central core sidewalk that is designed to bring everyone into the school.

Charlie Bushyhead came forward and stated there is a Superintendent Advisory Council and they meet with several students from all three grades at the high school. The students shared their concern about safety walking through the parking lot; that was one of the highest issues. The redesign brought in more curves in the parking with fewer runways and speed bumps have been added in that area, and there are more one-way lanes causing less interaction with vehicles and pedestrians.

Audrey Blank reminded the Board that in Section 55.050-K there are items that the Board of Adjustment needs to address or find in order to grant a Special Exception for the parking.

Mr. Van De Wiele read the conditions and asked if the Board had the study. Mr. Capron stated that a study had not been performed, because it was felt that having a nationwide study data brought together for what is typical in a high school did not compare to the realistic happenings within the subject high school. He did not think it was as important as what was actually happening with these parking requirements or parking needs.

Mr. Van De Wiele asked Ms. Blank if the Board has the ability to grant this if a parking study has not been submitted? Mr. Van De Wiele stated Item #2 and #3 have been covered in the determinations the Board is making. Mr. Capron believes that what he has a study is what was just heard about the parking permits that have been granted.

Ms. Blank thinks if the Board feels the information provided has satisfied that condition, they have the ability to find that they have received sufficient information.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-1-0 (Bond, Ross, Van De Wiele "aye"; Radney "nay"; no "abstentions"; Shelton absent) to **APPROVE** the request for a **Modification** of the previously approved site plan for Union High School (BOA-22553); **Special Exception** to permit alternative compliance parking ratios in an AG/RM-1 District (Section 55.050-K) to reduce the required number of parking spaces for a high school use, subject to conceptual plans 10.09 and 10.10 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. The Board also finds that the other allowed parking reduction alternatives of Section 55.050 are infeasible or do not apply and that the reduced parking ratios proposed are not likely to cause material adverse impacts on traffic circulation and safety or on the general welfare of property owners and residents in the surrounding area; for the following property:

LT 1 BLK 1, UNION HIGH SCHOOL ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22870—Kory Myers

Action Requested:

Special Exception to allow an addition to a structure with a non-conforming front street setback (Section 80.030-D & Section 5.030, Table 5-3); **Special Exception** to permit a carport to be located inside the street setback and the street yard (Section 90.090-C1). **LOCATION:** 3849 South Atlanta Place East (**CD 9**)

Presentation:

Kory Myers, 2200 South Utica Place, Suite 216, Tulsa, OK; stated he is the architect remodeling an addition for the homeowners. The first Special Exception is for an addition to an existing non-conforming structure and the second Special Exception is to build a carport within 35 feet of the street setback. When originally platted in 1953 the structure was within the required 25-foot building line from the Atlanta Place right-of-way. A 35-foot setback under the current Zoning Code qualifies the structure as existing non-conforming. The proposal is to extend the second floor to align with the face of the existing garage to improve the aesthetic portion and function of the house. The proposed carport will provide temporary parking for vehicles and align the scale of the building south elevation with the context of the neighborhood. There are other carports in the proximity of the subject house. Mr. Myers would respectfully request the Board approve his application.

Mr. Bond asked Mr. Myers if this would increase the footprint of the house. Mr. Myers stated the total area was increased over the garage, but the footprint stays the same.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-1 (Bond, Radney, Ross "aye"; no "nays"; Van De Wiele "abstaining"; Shelton absent) to **APPROVE** the request for a Special Exception to allow an addition to a structure with a non-conforming front street setback (Section 80.030-D & Section 5.030, Table 5-3); Special Exception to permit a carport to be located inside the street setback and the street yard (Section 90.090-C1), subject to conceptual plan 11.7 and the exhibit submitted today. 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 4, BROADMOAR ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22871—Alfred Cayasso

Action Requested:

Special Exception to allow Low-impact Manufacturing & Industry in the CBD District (Section 15.020, Table 15-2). **LOCATION:** 115 West 3rd Street South, Suite 390 **(CD 4)**

Presentation:

Alfred Cayasso, 4631 North Garrison Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Mr. Cayasso if the site would be a bakery. Mr. Cayasso answered no and stated that he will be making pre-rolled hand made medical marijuana cigarettes for pain management.

Mr. Van De Wiele asked Mr. Cayasso if he was growing on site. Mr. Cayasso answered no. Mr. Van De Wiele asked Mr. Cayasso if he was receiving product that was grown elsewhere. Mr. Cayasso answered affirmatively and stated that he will be going to get the product at the growers and process it at his office and then deliver it to the dispensary.

Ms. Ross asked Mr. Cayasso what he meant by "process it". Mr. Cayasso stated that his product will be hand made cigarettes and eventually hand made cigars. When he gets the marijuana from the grower it will be ready to be made into the cigarette and he will only be wrapping it in paper.

Ms. Radney asked Mr. Cayasso if he would have special machinery or will there be noise issues? Mr. Cayasso stated there would be no noise issues because the machine he uses to make the cigarette vibrates.

Ms. Ross asked Mr. Cayasso if there would be any smells. Mr. Cayasso stated he has carbon filters for the smell, and he does not plan to store any product at the subject site.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Shelton absent) to **APPROVE** the request for a **Special Exception** to allow Low-impact Manufacturing & Industry in the CBD District (Section 15.020, Table 15-2), subject to conceptual plan 12.7 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:

LTS 5 & 6 & W.3 VAC ALLEY ADJ ON E & N.10 VAC ST ADJ ON S LT 5 LESS BEG 19.9S NWC LT 5 TH NE37.4 SE50 NE2.40 SE30.2 TO PT .10SLY SL SW39.80 NW80.20 POB BLK 103,TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Mr. Van De Wiele asked Mr. Chapman if he could find standards for the parking study for future parking cases.

Mr. Chapman stated that it is usually a point in time survey as to what is on the lot. He can look for any type standards that are included in that. The alternative is to require the applicant to get a Variance at which point there would need to be a hardship.

Mr. Wilkerson stated that many times on a site like the high school, there are multiple ways to look at parking. Any assembly or entertainment venue that has over 250 people is required to come before the Board, so anytime there is discussion about a new football stadium or a new arena there are exemptions. He thinks the Board will see more and more similar cases.

Mr. Van De Wiele stated that he does not want to pave the way for a glorified response of "I think this is enough parking and that is my study". He does not want people to be able to say that and tell the Board how parking they think they need.

Mr. Chapman stated that he does not want to see the Board find it necessary to justify a hardship because a person cannot count how many spaces are needed.

Ms. Radney concurs with the comments. The two things that she has observed that happen before the Board, is people who come to the Board attempting to innovate and the Board does not want to squelch innovation. Then there are people that are suffering from an actual hardship and that is why they are bringing a request to the Board. As the Board is looking at infill mixed use applications there is the transition period where the Board has to figure out how much parking is necessary. Ms. Radney that in order for her to feel like she is serving all publics fairly, she needs some kind of information that suggests the applicant has looked at lots of different circumstances for their parking needs and the impact on traffic.

There being no further business, the meeting adjourned at 3:27 p.m.

Date approved: _____

Chair