

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1263
Tuesday, December 8, 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 Radney, Secretary Brown Shelton	Bond, Vice Chair	Wilkerson Chapman Sparger	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on December 3, 2020, at 8:39 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.

The City Board of Adjustment was held by videoconferencing and teleconferencing via **GoToMeeting**, an online meeting and web conferencing tool. Members of the public will be allowed to attend and participate in the Board of Adjustment's meeting via videoconferencing and teleconferencing by joining from a computer, tablet or smartphone using the following link:

<https://www.gotomeet.me/CityOfTulsa2/boa-gotomeeting-in-council-chambers-december-8th>

The staff members attending remotely are as follows:

Ms. Audrey Blank, City Legal

The Board members and staff members attending in person are as follows:

Mr. Stuart Van De Wiele, Chair

Mr. Austin Bond, Vice Chair
Ms. Burlinda Radney, Secretary
Mr. Steve Brown, Board Member
Ms. Jessica Shelton, Board Member
Mr. Austin Chapman, Tulsa Planning Office
Ms. Janet Sparger, Tulsa Planning Office

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MINUTES

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the October 27, 2020 Board of Adjustment meeting No. 1261.

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the November 10, 2020 Board of Adjustment meeting No. 1262.

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UNFINISHED BUSINESS

23029—Eller & Detrich – Andrew Shank

Action Requested:

Appeal of the Administrative Decision issued in the Letter of Deficiency written September 30, 2020 for permit application **SIGN-070484-2020**, stating that the existing dynamic display off-premise outdoor sign, located in the River Design Overlay (RDO-2), requires a permit and a Variance to replace the tri-fold dynamic display sign with LED dynamic Display (Section 70.140) **OR** in the alternative a Variance from Section 80.060-B.1 of the Code to “update an existing non-conforming tri-fold dynamic display off- premise outdoor advertising sign in a River Design Overlay District to an LED dynamic display sign”. **LOCATION:** 9904 South Riverside Parkway East **(CD 2)**

Presentation:

The applicant has requested a continuance to January 12, 2021.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for an Appeal of the Administrative Decision issued in the Letter of Deficiency written September 30, 2020 for permit application **SIGN-070484-2020**, stating that the existing dynamic display off-premise outdoor sign, located in the River Design Overlay (RDO-2), requires a permit and a Variance to replace the tri-fold dynamic display sign with LED dynamic Display (Section 70.140) **OR** in the alternative a Variance from Section 80.060-B.1 of the Code to "update an existing non-conforming tri-fold dynamic display off-premise outdoor advertising sign in a River Design Overlay District to an LED dynamic display sign" to the January 12, 2021 Board of Adjustment meeting; for the following property:

LT 1 BLK 1, KINGS LANDING, 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 it 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 that 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.

Mr. Van De Wiele stated this is an unusually long agenda today, so he would like to get through the cases as quickly as possible. He wants everyone to have the opportunity to say what they want to say, but if someone has already made the point that another person wants to make please just get up and state your agreement with the other person. The Board would like to get everyone heard today but if not the meeting will go into recess until 1:00 P.M., December 9th at the same location.

Mr. Van De Wiele recused, appointed Ms. Shelton to lead the meeting and left the room at 1:12 P.M.

23022—Lubarje, LLC – Todd Maxwell

Action Requested:

Appeal of the Administrative Decision denying permit ZCO-067561-2020 for a Medical Marijuana Dispensary (Section 70.140). **LOCATION:** 7315 South Memorial Drive East **(CD 7)**

Ms. Shelton stated that the Board will hear the spokesperson from the Administrative side first and then hear from the appellant and then hear from the interested parties.

Presentation:

Yuen Ho, City of Tulsa, Development Services, 175 East 2nd Street, Tulsa, OK; stated he stands on the statement he provided to the Board of Adjustment. In summary he notes that both applications were filed in August, a couple of days apart, and both were reviewed by Staff. A Letter of Deficiency was sent out on September 2nd. One applicant responded on the same day and the other applicant responded a week later, September 9th. The respondent of September 2nd met all the requirements. Per the Zoning Code Development Services is obligated to approve that application. The applicant that responded on September 2nd was approved and the applicant that responded on September 9th was approved by a different plans examiner who did not realize that the September 2nd approval was within 1,000 feet of this application. The Zoning Code requires a separation of 1,000 feet between dispensaries, the second application has to be revoked.

Todd Maxwell, 1717 South Cheyenne, Tulsa, OK; stated he is the attorney for Lubarje, LLC who is the property owner of the denied clearance permit application. He takes issue that it was a properly granted permit that precluded his client, because the applicant was neither the property owner nor an authorized agent of the property owner. Mr. Maxwell stated that he has provided a written statement to the Board that includes citations to the Zoning Code. The Code requires that applicants be a property owner or authorized agent of the property owner. To his knowledge the applicant was an architect employed by a party that was neither the property owner nor an agent of the property owner. For that fact, the permit should have been denied. The fact that the permit was granted is what has precluded his client's permit from being granted.

Ms. Shelton asked Mr. Maxwell who submitted his client's application. Mr. Maxwell stated that KKT Architects made the submission, and they are employed directly by his client who is the property owner.

Ms. Shelton asked Mr. Maxwell if they had to provide an affidavit saying they are an agent when the application was submitted. Mr. Maxwell answered no and stated that it seems to be a flaw in the application process because they are not asked if they are the property owner or an agent of the property owner.

Ms. Shelton asked Mr. Maxwell if the application was the zoning clearance application only. Mr. Maxwell answered affirmatively.

Ms. Radney stated that she did not know there was a difference. Ms. Shelton stated that she had looked it up online and there are two separate permits, one for zoning clearance only and one for commercial building zoning clearance and a Certificate of Occupancy. Mr. Maxwell stated that for use as a medical marijuana dispensary a

person needs to get a permit showing that there is the proper clearance from any other dispensary or a school. These two properties at issue happen to be right next door to each other.

Mr. Chapman stated the zoning clearance permit is a part of any building permit application that is made. In this case a person can do a separate zoning clearance to make sure that it is good to go for the zoning portion, so it would not include building plan reviews. It is only site-specific issues that are addressed in the Zoning Code. For the purpose of the Zoning Code they can clear that for up to six months if they are trying to open a use that, per Code, is separated from another use by the Zoning Code.

Ms. Radney asked Mr. Chapman if this is strictly about the measurement. Mr. Chapman stated that it would be the measure but additionally it is everything that is addressed in the Zoning Code; it would be parking, any other rules, and the use would be reviewed. It is addressing everything in the Zoning Code and that is what is being cleared through the Zoning Clearance permit.

Ms. Shelton asked Mr. Chapman if this is a precursor application, the zoning clearance only, before a person gets a full commercial Certificate of Occupancy permit. Mr. Chapman stated they can be done separate. If a person applied for a Certificate of Occupancy the zoning clearance is part of that, the same as a building permit application.

Mr. Maxwell stated that both the permits were applied for early on in the process. His client sought a permit to be able to begin construction work to have the work on the inside which would be specific for use as a dispensary. The other property is currently a vacant property.

Ms. Radney asked if it is standard practice to have an architect submit the application. Mr. Maxwell answered affirmatively. They are normally employed by a written contract which makes them an authorized agent to the property owner. Ms. Radney asked Mr. Maxwell if he was suggesting that the other party did not have such a contract. Mr. Maxwell stated that he is suggesting that this particular applicant did not have such contract with the property owner. Ms. Radney asked if they did with the potential operator. Mr. Maxwell if they are considered a potential operator, yes. At the time the application was made it is his understanding that there was no meaningful negotiation going on between the potential lease holder and the property owner.

Ms. Blank stated that Mr. Ho could speak more to the process the City uses about who is able to submit an application. She would also like to note that the City Code allows for the zoning clearance permit to be considered when they review the existence of a zoning clearance permit by another facility within the 1,000 feet is part of something, they base the reason for possibly denying the second applicant's request for the zoning clearance.

Yuen Ho stated anybody can file a permit application. This would be a commercial building permit application. It would include a zoning clearance review. At the same time, anybody who has an interest can also file the zoning clearance application. The zoning clearance application pertains to issues in the Zoning Code. Often times, an interested party would file a zoning clearance application first to make certain that the proposed use would be acceptable at a particular location before they endeavor to invest in professional design fees for the development. A zoning clearance application can be filed ahead of future plans or a person can submit a single commercial building permit application that will require the zoning clearance to be reviewed at that time. In this particular case, of the two dispensaries, both applications were just zoning clearance applications. A building permit application has an additional page which is a question of agency of the applicant. That form is not in the zoning clearance application, and as Mr. Maxwell noted it seems to be a discrepancy in the application packet. Staff did not make an effort to find out if KKT had an agency relationship with the dispensary operator, i.e., the tenant of the space, or if KKT has an agency with the landlord to develop the space for a dispensary. All the staff knows is that KKT made the application. Development Services over the years has developed different forms and method policies to process applications. Often times it is not practical to approach to request paperwork that defines the agency relationship. Development Services is always under a deadline to issue permits and approvals as soon as possible to keep economic development going. So, some of the administrative issues are assumed to be the responsibility of the applicant to disclose a truthful and accurate relationship, so the staff does not often devote themselves and the time to pursue the paperwork. At the time of the application, both of the applicants were correct in that there was not a business within 1,000 feet of each other. As it turned out, one responded in a manner that complied with the Zoning Code so staff made an approval of that application. Unbeknownst to the other plans' examiner, not realizing that the application had been approved a week before, the second plans examiner made an approval. When it was discovered that the first approval represented a location within 1,000 feet staff felt obligated to go back and revoke the second application because the first application is valid for 180 days.

Mr. Maxwell came forward and stated that even though it may not be regular practice to ask for proof of agency it is required by the Code. It just has not been done and it would not be a burdensome step for anyone, even if they had not executed a lease agreement with the landowner, to get a simple form stating that a person is authorized to seek a permit. It is required by the Code and would not be burdensome on anybody doing a preliminary permit.

Interested Parties:

Amanda Lowe, 320 South Boston Avenue, Tulsa, OK; stated she is the attorney for F5 Industries. It is her understanding that the zoning clearance only application does not require the agency relationship in order to submit the application. It is usually a place holder and it is common practice for architects to submit on behalf of interested parties. In fact, she believes this is a red herring issue as the appellant was not the owner of the property at the time the application was filed. Even if there was an agency relationship

between the appellant and the architect, they were not the owner at the time the application was filed. Neither one of them was the agent for the owner technically. It has been stated that her client did not have permission from the owner to file the clearance only permit but that permission was not needed, plus the owner knew at all times that it was the intention of her client to open a dispensary at the location. Contrary to Mr. Maxwell's assertion her client was and still is in active negotiations with the owner for a lease agreement. The issue is who really had the first complete application, and in looking at the timeline it is clear that her client had the first complete application on September 2nd, and it was approved at that time.

Taras Filenko, CEO of F5 Industries, 623-A South Peoria, Tulsa, OK; stated that he also owns the Seed Cannabis Dispensary. The appellant obviously knows that he is in active negotiations with the landlord, but what he failed to mention is that the owner's agent for the property is also the agent for the buyer of the property next door. There is a conflict there. That real estate agent was failing to submit the discussions to the owner; he was negotiating with the real estate agent, but the owner was not receiving the information. On August 3rd he started discussions about leasing the front of the property and the owner never received that information. On October 5th he submitted a formal LOI to the property owner, and he did receive that, then the negotiations started while waiting the zoning decision on the spacing. On November 6th, the other party tried to submit a false affidavit with the real estate agent saying that he did not have consent from the owner. At that point he called the owner of the property and the owner said he no idea any of this was going on. At this point there were several more discussions and now he told the owner he had to speak with the Board of Adjustment and receive their decisions before any further negotiations were made. Mr. Filenko stated that to make that much of an investment in a property and renovate a property he first needs to know from the City that the spacing requirement is met, and he did that. He does not have to have consent on the spacing requirement. He wanted to make sure he was compliant and that he would be able to install an operation at the location, and then after the investments would start.

Ms. Radney asked Mr. Filenko the date that the LOI was issued. Mr. Filenko stated that on August 3rd he spoke with real estate agent, the property owner knew nothing about the conversation. Ms. Radney asked Mr. Filenko if it was an LOI to purchase or to tenancy. Mr. Filenko stated it was to lease the property from the owner; October 5th.

Ms. Radney asked Mr. Maxwell if he also had an LOI or contract on his property. Mr. Maxwell stated that Lubarje, LLC was the property owner at the time of their application; the closing date was well before the August application date.

Ms. Radney asked Mr. Maxwell if, when he closed, was the agent actively working for both parties at the same time for the same use. Mr. Maxwell stated that the real estate agent does represent the owner of the other property. Ms. Radney asked Mr. Maxwell, if at the time he was negotiating prior to close with the agent who represented both buildings, was he in negotiations at the same time as the appellant? Mr. Maxwell stated

that it is his understanding that they first looked at the property in early August, so his client's purchase was closed before then.

Kevin Hale, One Architecture, 1319 East 6th Street, Tulsa, OK; stated he agrees with Mr. Filenko, but he would like to speak to the portion of filing a zoning clearance as an architect as a part of doing their due diligence. This is a very common practice for specific reasons, just like being discussed, for spacing verification. Before a person financially invests any money, they want to make sure they have their position locked down. There is a 1,000-foot radius per zoning and the zoning application was filed, zoning only. That does not require authorization as an agent. That is a separate permit that goes along with the building permit.

Ms. Radney asked Mr. Hale if he had an agency agreement with his client on September 2nd when the zoning clearance only application was filed. Mr. Hale answered affirmatively.

Rebuttal:

Todd Maxwell came forward and stated that it is required by the Code that even for the clearance permit that a person be the property owner or the authorized agent. It would not put a damper on any of the development activities for people to do their due diligence to get a simple authorization from the owner to file for a clearance permit.

Amanda Lowe came forward and stated that she disagrees that the agency requirement is required for the zoning clearance only permit. If it were the City, would a requirement on the application, so her client should not be punished for that.

Taras Filenko came forward and stated that in the Code it says that a person needs to get a zoning clearance permit before a move is constructed or structurally alter any building or establishing or changing the use of any building or lot. There is a lot of time and money and energy that has to be put in this before he goes in with those investments, he wants to make sure that he has the right to operate there. He and Mr. Maxwell's client both submitted for spacing and at that point both parties received Letters of Deficiency on the same day; it took Mr. Maxwell's client a week to respond and he completed his on the same day because he was paying attention and he wanted to make sure he received the rights to the area. It is his understanding that he had 180 days to apply for the additional zoning requirements to make modifications and make the structure usable for his purpose.

Comments and Questions:

Ms. Shelton stated she agrees with Mr. Maxwell that there needs to be some language cleanup that needs to happen so that it is understood what is expected. She does not think that anyone made an error in this case, it sounds like both applicants did what they were supposed to do but one responded slower than the other.

Ms. Radney stated that it is a concern for business owners that it is very difficult to know what is happening, and this particular case she thinks there was an opportunity for there to be some mixing of information.

Mr. Brown asked what it means if the Board were to affirm the appeal. Mr. Chapman stated if the Board affirms the appeal it essentially means that Mr. Maxwell's appeal is denied, and he would not receive a permit to operate a dispensary.

Ms. Shelton asked if Mr. Maxwell could apply for a Variance if that were to happen. Mr. Chapman answered affirmatively.

Board Action:

On **MOTION** of **BROWN**, the Board voted 3-0-1 (Brown, Radney, Shelton "aye"; no "nays"; Van De Wiele "abstaining"; Bond absent) to **AFFIRM** the Administrative Decision denying permit ZCO-067561-2020 for a Medical Marijuana Dispensary (Section 70.140), finding that the Development Administrator acted appropriately in the administrative decision denying permit ZCO-067561-2020 for a medical marijuana dispensary; for the following property:

**LT 2 LESS W40 THEREOF BLK 2, EL PASEO RESUB L2-3 B1 SKYVIEW ACRES,
City of Tulsa, Tulsa County, State of Oklahoma**

Mr. Van De Wiele re-entered the meeting at 2:01 P.M.

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NEW APPLICATIONS

23030—Jenna Bromley

Action Requested:

Variance of the required 25-foot street setback in an RS-3 District (Section 5.030, Table 5-3). **LOCATION:** 2432 East 13th Street South **(CD 4)**

Ms. Radney informed the Board and the audience that she has worked in the same office as a realtor as Ms. Bromley.

Presentation:

Jenna Bromley, 700 East Decatur Street, Broken Arrow, OK; stated she is doing a renovation; it is an add-on for a client. The client would like to extend the property to meet her needs. The property has an awkward angle, and she would like to encroach on the front easement for a porch.

Mr. Van De Wiele asked Ms. Bromley if she was speaking of the Atlanta Avenue side of the property when she is speaking of the front easement. Ms. Bromley stated that it would be the 13th Street side. If the issues were the covered deck and the open deck designated on the site plan. Ms. Bromley answered affirmatively.

Mr. Van De Wiele asked Ms. Bromley to describe to the Board what the proposal will look like. Ms. Bromley stated there a lot of cottage Tudor style houses with steep gables, and the plan it to stay in trend with the neighborhood and create a really Tudor cottage that stays in character. The existing structure is a basic house with very little character and her goal is to bring the traditional look and feel to the project.

Mr. Van De Wiele asked Ms. Bromley if the portions on the 13th Street side were single story or double story? Ms. Bromley stated it will be a single-story house which is why it will encroach the front easement.

Mr. Van De Wiele asked Ms. Bromley if the covered deck was a second story deck. Ms. Bromley answered no.

Mr. Van De Wiele stated that the Board will place a time limit on applicants of five minutes and interested parties of three minutes allowing two minutes for rebuttal.

Interested Parties:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated he is before the Board as an interested party on behalf of the Renaissance Neighborhood Association. He is very familiar with the subject property, and he has faith that the applicant will make improvements. He is concerned about the inadequate level of representation of what is really going to happen to the property, especially if it is going to come this far forward into the required street yard. The neighborhood certainly has not heard anything about this from the Board, he just happened to be present for a couple of other agenda items, and he thinks it would in everybody's best interest to continue this request allowing the project to be developed a little more and bring it to the Renaissance Board. This is going to push forward from a strong existing line of properties on 13th Street from the railroad right-of-way all the way to Delaware Avenue; there is a consistent setback for almost half mile.

Mr. Van De Wiele asked Mr. Neal if there was an architect committee that requires Board approval in the neighborhood association. Mr. Neal answered no stating the association is not an HOA, but the association does try to be involved in anything in Variances when the association is aware of them. In the past notices were sent to the Board President, but that does not seem to be happening and it could be that the notice is going to a past President.

Rebuttal:

Jenna Bromley stated that she has done other projects in the Renaissance neighborhood, it was new construction, and this is the first she has heard of a neighborhood association board. Ms. Bromley stated that she did not even know there was Board to be addressed in the neighborhood. As far as the aesthetic line that Mr. Neal has referred to, in looking at the street view map of the subject property, if she were to extend it the house would be matching up with the front of the side of the adjacent property. The subject property is the only house that faces north so there is no other line to match with for that to be an issue. Ms. Bromley stated that she thinks in that neighborhood it would behoove the neighborhood to get the dilapidated house up to date and improve the value of surrounding properties, and the aesthetic of the neighborhood.

Mr. Van De Wiele asked Ms. Bromley if the north end of the house would be any farther north than the north edge of the house to the east. Ms. Bromley answered affirmatively; from her calculations it looks to be exactly in line with the neighboring house.

Mr. Van De Wiele asked Ms. Bromley if all she wanted to add is an eight-foot deck to the side being discussed. Ms. Bromley stated that it will extend out a little bit for the living space, but the majority of the space will be outdoor living.

Mr. Van De Wiele asked Ms. Bromley if she was keeping the principal structure and adding on to it on the north side. Ms. Bromley stated she will be adding on to the north and to the south. Mr. Van De Wiele asked Ms. Bromley if all she was adding on the north side is eight feet. Ms. Bromley answered affirmatively.

Ms. Shelton stated that she will abstain from voting in this case, her house is in the HOA. Ms. Shelton left the meeting at 2:13 P.M.

Comments and Questions:

Ms. Radney asked if the applicant has access to any additional plans that the Board could review. Ms. Bromley e-mailed plans to Mr. Chapman so he could place them on the overhead projector.

Ms. Radney asked Ms. Bromley if she was changing the roof pitch. Ms. Bromley answered affirmatively.

Mr. Van De Wiele asked Ms. Bromley about the roof line. Ms. Bromley stated the middle portion of the house will keep the same roof line; the pitch will be heightened for the front patio.

Ms. Radney asked Ms. Bromley if the front gable would architecturally conform with the adjoining properties. Ms. Bromley answered affirmatively.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-0-1 (Brown, Radney, Van De Wiele "aye"; no "nays"; Shelton "abstaining"; Bond absent) to **APPROVE** the request for a Variance of the required 25-foot street setback in an RS-3 District (Section 5.030, Table 5-3), subject to conceptual plan 5.7, 5.9 and the plan submitted today. The Board has found the hardship to be the difficult and odd shape of the existing lot. 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:

LT 6 BLK 1, ATLANTA ADDN RESUB L2 B3 FAIR ACRES ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Shelton re-entered the meeting at 2:20 P.M.

23031—Randall Slankard

Action Requested:

Special Exception to permit the alteration, expansion or enlargement of a structure with an existing non-conforming side setback (Section 80.030-D). **LOCATION:**
117 South Louisville Avenue East **(CD 4)**

Presentation:

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

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:

LT 10, MORGANS RESUB B11 & RES MORGAN HGTS FIRST ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23032—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to permit Low-Impact Medical Marijuana processing (Low-impact Manufacturing & Industry Use) in the CBD District (Section 15.020, Table 15-2). **LOCATION:** 621 South Kenosha Avenue East **(CD 4)**

Presentation:

Nathalie Cornett, 2727 East 21st Street, Tulsa, OK; stated she represents The Flower Shop Dispensary. The building is existing and is currently operating as the Flower Shop Dispensary and it is in an interesting and odd location coming off the ramp from I-75 because the shop is behind you by the time you get onto a downtown street. The dispensary has been in operation for about a year and they would like to add a commercial style kitchen to make edibles and pre-rolls. The building is about 4,600 square feet and her client is working with an architect to install a demising wall to make it two different suites so they can be properly licensed with the state. The entrance to the dispensary is on the north side of the building and the proposed kitchen would be on the southeast corner of the building and the kitchen would have a separate entrance on the southeast side of the building. On the south, west and east sides of the building are highway or vacant land, and to the north is a small commercial center. This will not have a detrimental effect on the neighborhood, and she would request the Board approve the Special Exception request.

Mr. Van De Wiele asked Ms. Cornett if the kitchen would be open to the public. Ms. Cornett stated that it would not.

Ms. Cornett stated there will be two employees working in the commercial kitchen, and the dispensary has 10-12 employees currently.

Ms. Shelton asked Ms. Cornett what use is directly north of the subject property. Ms. Cornett stated that it was a dispensary, but she drove by the building this morning and it is boarded up, so she is not sure if it is still operating. There is also a print shop and cross stitch business there as well.

Interested Parties:

Cody Welch, 2878 East 34th Street, Tulsa, OK; stated he is a cannabis processor, and he knows the owners of the subject dispensary. They are previous restaurateurs, and he thinks this would be a good idea for them because they would strictly follow everything per the Code.

Rebuttal:

Nathalie Cornett came forward.

Mr. Brown asked Ms. Cornett if the addition be similar or the same materials as the existing building. Ms. Cornett answered affirmatively. Ms. Cornett stated that previously the building was a dilapidated industrial building, and her client has really cleaned it up. She does not think there will be much exterior changes to the building, it is mostly to add the separate commercial kitchen.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to permit Low-Impact Medical Marijuana processing (Low-impact Manufacturing & Industry Use) in the CBD District (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:

All of Lots 13, 14, 15, 16, 19 and 20, Block 7, BURNETT ADDITION to Tulsa, Tulsa County, State of Oklahoma, according to the recorded Amended Plat thereof, LESS AND EXCEPT the following described tract constituting a portion of the above lands:

Beginning at the SW Corner of said Lot 13; thence East along the South boundary of Lots 13, 14, 15 and 16 for 100 feet to the SE Corner of Lot 16; thence North along the East boundary of Lot 16 for 42.5 feet to a point; thence in a Southwest direction to a point on the West boundary of Lot 13, said point being 30 feet North of said SW Corner; thence South for 30 feet to a point and place of beginning

AND LESS AND EXCEPT the following described tract constituting a portion of the above lands:

Beginning at the SW Corner of Lot 19, thence East along the South boundary of Lots 19 and 20 for 50 feet to the SE Corner of Lot 20; thence North along the East boundary of said Lot 20 for 55 feet to a point; thence in a Southwest direction to a point on the West line of said Lot 19 said point being 48.75 feet North of said SW Corner; thence South along the West boundary of said Lot 19 for 48.75 feet to the point and place of beginning

AND

That portion of Lots 17 and 18, Block 7, BURNETT ADDITION to Tulsa, Tulsa County, State of Oklahoma, according to the recorded Amended Plat thereof, being more particularly described as follows, to-wit:

Beginning at the NE Corner of said Lot 18; thence West along the North boundaries of Lots 17 and 18 a distance of 50 feet to the NW Corner of said Lot 17; thence South along the West boundary of said Lot 17 a distance of 97.5 feet to a point; thence in a Northeasterly direction to a point on the East boundary of said Lot 18, said point being 91.25 feet South of the NE Corner of said Lot 18; thence North along the East boundary of said Lot 18 a distance of 91.25 feet to the point and place of beginning, City of Tulsa, Tulsa County, State of Oklahoma

23031—Randall Slankard

Action Requested:

Special Exception to permit the alteration, expansion or enlargement of a structure with an existing non-conforming side setback (Section 80.030-D). **LOCATION:**
117 South Louisville Avenue East (CD 4)

Presentation:

Randall Slankard, 117 South Louisville Avenue, Tulsa, OK; extended his apologies, he lost his previous connection. He would like to square the house off on the north end, one room would be an arts and crafts room and the other room would be an extension of the kitchen and washroom. Mr. Slankard stated the was built in 1950 and there is an existing carport and utility room.

Mr. Van De Wiele asked Mr. Slankard if the addition would be in line with north edge of the existing north edge of the building, and in line with the existing east edge of the building. Mr. Slankard answered affirmatively.

Mr. Slankard stated that he is proposing to move the front door to the west side of the house to make it an easier accessible entrance to the house.

Mr. Brown asked Mr. Slankard if the addition would be one-story. Mr. Slankard answered affirmatively and stated the addition will match the existing house.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BROWN**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to permit the alteration, expansion or enlargement of a structure with an

existing non-conforming side setback (Section 80.030-D), subject to conceptual plan 6.5 of the agenda packet. The addition's exterior finishes and roof line be compatible with the existing structure. 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 10, MORGANS RESUB B11 & RES MORGAN HGTS FIRST ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23034—Tom Neal

Action Requested:

Variance to allow a detached Accessory Dwelling Unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate (Section 90.090-C); Variance to reduce the required 35-foot setback from East 15th Street (Section 5.030, Table 5-3). **LOCATION:** 1502 South Carson Avenue West **(CD 9)**

Presentation:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated this property is an early 20th Century four-square in an eclectic neighborhood near downtown; the house is almost 100 years old. This property abuts along 15th Street which is an arterial street. The homeowners would like to add a back porch and a mud room. Currently when entering the back door you literally step onto a landing for a staircase which is an extraordinarily situation. This addition would give the house a proper back entry as well as a porch. The other scope of the project is to add a garage. There is not currently a garage and he is not sure if there was a previous garage. The problem is that with a 35-foot arterial street setback literally 2/3 of the lot is not buildable by right which means 2/3 of the house is in the required street yard and that is the hardship for this request.

Mr. Van De Wiele asked if the current driveway is off 15th Street. Mr. Neal answered affirmatively.

Mr. Brown asked Mr. Neal about the access to the proposed garage. Mr. Neal stated that there is an existing curb cut and it may need to be slightly wider, and the proposed garage would be set back 21 feet.

Mr. Van De Wiele asked Mr. Neal how the property to the south is used. Mr. Neal stated that it is an old house that is currently being used as a law office. This is a very much mixed-use neighborhood. Mr. Van De Wiele asked Mr. Neal about the property directly to the east and the west. Mr. Neal stated that property to the east is a parking lot, and Liberty Tower and Texaco is on the corner of Boulder, and to the west is a house but he is not sure if it is residential or office use.

Mr. Van De Wiele asked Mr. Neal about the height of the proposed addition. Mr. Neal stated that it will be 24 feet and the principal residence is over 30 feet.

Ms. Shelton asked if the staircase was facing the south residence and if the window was a clear story window. Mr. Neal stated that because a person is descending down the stairs, they would have to be extremely tall to see out the window, but the window can be made more private if need be.

Ms. Shelton asked Mr. Neal about the deck screening. Mr. Neal stated that he has not discussed that with his client especially since on one side you look out to 15th Street and to the south side it is a non-residential commercial use, and he thinks that is less of an issue.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to allow a detached Accessory Dwelling Unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate (Section 90.090-C); Variance to reduce the required 35-foot setback from East 15th Street (Section 5.030, Table 5-3), subject to conceptual plans 8.12, 8.13 and 8.14 of the agenda packet. The Board has found the hardship to be the existing structure as constructed predates the existing Code. The egress window on the west elevation of the property be constructed in such a way as to ensure privacy for the adjacent property. 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:

ALL LT 1 N.4 LT 2 BK 3, STONEBRAKER HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23035—Tom Neal

Action Requested:

Special Exception to allow an Accessory Dwelling Unit in an RS-3 District (Section 45.031-D); Variance to allow a detached Accessory Dwelling Unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate. (Section 90.090-C); Variance to allow the floor area of a detached Accessory Dwelling Unit to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A2 & Section 45.031-D6.a); Variance to allow more than 30% coverage by a Detached Accessory Dwelling Unit in the rear setback in an RS-3 District (Section 90.090-C). **LOCATION:** 1524 South Trenton Avenue East **(CD 9)**

Presentation:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated the subject property is located in the Swan Lake neighborhood, which is very dense, very urban, even more so with the development on Cherry Street along with the growth on Cherry Street. This property is being used as a rental currently, but he intends to move back into for his own use. The property has a shared single driveway between it and the house to the south, an existing garage and garage apartment. His client's desire is to add to the parking; there would be a two-car garage for his client and a one-car garage for a potential in-law or tenant. Mr. Neal stated he has worked hard to keep the new build visually in height compatible with the existing, which is original to the house from the mid-1920s. The property is located in a historic preservation district, but accessory buildings are not subject to HP review.

Mr. Van De Wiele asked Mr. Neal if the garage would be loaded from the shared driveway or from the alley. Mr. Neal stated the larger new garage will be loaded from the alleyway and the existing garage currently is accessed from the driveway but will have a new door also from the alleyway.

Mr. Van De Wiele asked if this was a tear down. Mr. Neal stated that it is an addition to the existing. The client is keeping the existing garage apartment, but it is being gutted.

Mr. Van De Wiele asked, if looking at page 9.18, how much of this length, width and height is existing and how much of it is addition? Mr. Neal stated the left 1/3, approximately, is existing and the right 2/3 is brand new; the lower part being garage and the upper part being living quarters. What he is proposing is to turn the existing garage apartment into a sitting room and kitchen and adding a couple of bedrooms over the new garage.

Mr. Van De Wiele asked Mr. Neal if the existing garage was going to stay a garage. Mr. Neal answered affirmatively. Mr. Van De Wiele asked if it loaded into the interior of the property. Mr. Neal answered affirmatively, but there will be a door added to make it essentially a drive-thru garage.

Mr. Van De Wiele asked Mr. Neal if the new garage will access only to the east. Mr. Neal stated the new garage will access from the alleyway.

Mr. Van De Wiele asked if this was going to be one-story or two-story. Mr. Neal stated that it will currently be two-story with an exterior stair to become an internal stair.

Mr. Van De Wiele asked Mr. Neal to state his hardship for the request. Mr. Neal stated the hardship is that it is a non-standard size lot, it is an area that street is difficult because it is in the block immediately south of Cherry Street and the area is overparked. With a shared driveway the driveway really can't be used because of the potential of blocking the neighbor's access.

Mr. Van De Wiele asked if the planned height was any taller than the current height. Mr. Neal answered no, stating that it matched the current height, and it will be a little unusual construction as it will have a less than standard height plate on the exterior on the east and west sides vaulting upward for an eight-foot ceiling in the center.

Interested Parties:

Robert Howland, 1520 South Trenton, Tulsa, OK; stated he is concerned that as proposed he does not see any wording about the upper limits being restricted in height. The other concern is privacy. The second-floor bedroom window that looks out to the northeast, that would view his deck.

Mr. Van De Wiele asked Mr. Howland if measures were taken on the northward facing windows, would that help address his concerns? Mr. Howland stated that primarily the east facing second story windows would be the intrusive on privacy. The window to the north on the second floor looks over the garage so that would not be too much of a concern.

Mr. Van De Wiele asked Mr. Howland if there currently privacy concerns or issues with the existing two-story structure. Mr. Howland answered no.

Ben Gray, 1528 South Trenton, Tulsa, OK; stated he is the next-door neighbor that shares the driveway. He has lived in his house for 12 years and when a person shares a driveway you realize the actions you take have a bigger impact on the neighbor than they would in an individual driveway setting. This building will triple in its size. The second story porch will look over the shared driveway and his backyard. He thinks it is important to think about the size of the structure and what it is going to do to the historic Swan Lake neighborhood. The size of the structure is as big as the main residence and it is not at all what these structures were intended to be; they were intended to be small auxiliary structures that may have had a small dwelling component, which is what is

there now. The expanded version is three to four cars wide for a garage space on the first floor, which is not consistent with what Swan Lake is. Most of the houses have a small single car garage. Mr. Neal spoke in a prior case today about consistency within the neighborhood being important in the Renaissance Neighborhood. When looking at this project it is entirely inconsistent with the Swan Lake neighborhood. When something is as inconsistent as that, that is what is going to damage property values. This will be injurious to his property value, being next door, and it sets a dangerous precedent for the rest of the neighborhood. This is basically a size of a small house being built in the back yard. If that is built here what is going to stop the rest of the neighborhood from deciding they want to build a similar structure in their back yard? He wants to take issue with the two hardships that have been mentioned; the first one was that the property has very limited off-street parking. The previous tenant of the house actually parked four cars on the driveway and Mr. Gray stated he parked two cars on his side, so there were six cars parked there. The existing garage apartment actually has its own dedicated parking space off the alley, it is fenced in. However, if this expands it is going to be covered by a building so the lack of parking is self-imposed, and the hardship only exists because of the building expansion. The second hardship, the applicant stated that the garage is only sized for Model T sized cars, the prior tenant parked full size 4-foot Jeep along with a Jeep from the 1970s in the garage; two full size cars parked in the garage. This is a 1,700 square foot development on a 1,500 square foot main residence. That is not really anything that can be justified on this type of a lot, and it grossly encroaches on his property and his property value.

Chip Atkins, 1638 East 17th Place, Tulsa, OK; stated he owns several properties in the neighborhood, and he is heavily invested in the subject property. Mr. Atkins stated he is the Swan Lake Historic Preservation person on the Tulsa Preservation Commission subcommittee. He has lived in the neighborhood for more than 25 years and when Swan Lake developed as a preservation neighborhood it was not foresaw that a structure would be turned into a residential house almost or the same size as the primary residence. That is why it was never part of the guidelines for the subcommittee to look at in any historic neighborhood, because garages at the time were just one and two car garages with maid's quarters. The garages were never meant to be a massive structures that are being seen now. This will be the largest garage apartment, if approved, in Swan Lake. Mr. Atkins thinks the hardships are self-imposed. When a person moves into the neighborhood, they understand the parking issues, they look at the house before purchase and he does not think the parking issue hardship is valid because the parking issue has been there for a long time. The property is zoned RS-3, not multi-family, not RS-4 or RS-5 zoning, but it is zoned single family. That is what the owner purchased the house as, a single-family residence.

Rebuttal:

Tom Neal came forward and stated that RS-3 has always allowed for accessory buildings and the Zoning Code encourages accessory buildings, even more so than they did before. He is sympathetic to Mr. Gray's concerns and he knows his client was uncertain about the porch so that may something that could be eliminated. As for Mr. Howland's concerns, he could turn the east facing windows into windows with frosted

glass. Neighborhoods change, and he has difficulty with someone saying there cannot be an accessory building when there are 2-1/2 story apartment buildings that have been in the neighborhood since the 1940s. Change is difficult and neighborhoods change, and he thinks here there is a need to accommodate change in living conditions, changes in the family that owns the property and how they are going to live there.

Ms. Radney asked Mr. Neal if he knew what the building is located at the corner of 16th and St. Louis that has the driveway that exits to 16th Street. Mr. Neal it is a very small house that is tightly packed in with almost no yard and it faces due south. Ms. Radney asked Mr. Neal if it was a duplex, a separate address, or is it all one property? Mr. Neal thinks it is its own little house with its own address.

Ms. Shelton asked Mr. Neal if his client would be willing to negotiate on the size. Mr. Neal stated he is willing to speak with him about it. He knows his client hopes to live in the house at some point. He thinks the two bedrooms is pretty high on their agenda because they would like to age in place.

Ms. Radney asked Mr. Atkins to come forward and she asked him about the property on the corner of 16th and St. Louis. Mr. Atkins stated that property is a single-family house that is behind a single-family duplex. There is a duplex on the corner of 16th and St. Louis, and there is a single-family house to the east of it. Mr. Van De Wiele asked Mr. Atkins if the duplex was the larger of the two structures. Mr. Atkins answered affirmatively. Mr. Atkins stated the duplex is on the corner of 16th and St. Louis, then there is a single-family house to the north of that structure, then there is an apartment building, then there is a two-story rock house, then there is his property behind the restaurants. On the other side on Trenton there is single-family residence that goes to 16th Street and it has a two-car garage.

Comments and Questions:

Ms. Shelton stated that she does have any issues with the Special Exception, but she is struggling with the hardship for the Variance. She thinks Mr. Neal should discuss this with his client and then come back.

Mr. Van De Wiele agreed with Ms. Shelton. There is clearly a building there, and to allow some improvement is compatible, but this does seem to be awfully large.

Ms. Radney stated that she is torn on this one. What is also true is the way these blocks were developed historically. The transition between 15th and 16th was transitional from the beginning, that is evident by the fact that there was a duplex on St. Louis and multi-family unit. It was intended to be transitionally buffering the more traditional single-family uses that are to the south, between that and the commercial district. It doesn't inherently bother her to see more density in that block, but she would have a different feeling about if it were south of 16th. She also agrees with some of what the neighbors have said, the shared driveways are problematic at best but the opportunity to have more covered parking might obviate some of the need to have all of

this parking in the back yard. She does like the idea of the drive thru garage, but she agrees there could be discussion so there could be a compromise.

Mr. Van De Wiele suggested to Mr. Neal that he continue his case and asked if January 12th would allow him enough time to visit with his client and the neighbors. Mr. Neal answered affirmatively.

Board Action:

On **MOTION of radney**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for a **Special Exception** to allow an Accessory Dwelling Unit in an RS-3 District (Section 45.031-D); **Variance** to allow a detached Accessory Dwelling Unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate. (Section 90.090-C); **Variance** to allow the floor area of a detached Accessory Dwelling Unit to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A2 & Section 45.031-D6.a); **Variance** to allow more than 30% coverage by a Detached Accessory Dwelling Unit in the rear setback in an RS-3 District (Section 90.090-C) to the January 12, 2021 Board of Adjustment meeting; for the following property:

LT 6 BLK 4, ORCUTT ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23037—EnKorp, LLC

Action Requested:

Special Exception to allow a carport in the street yard and street setback in an RS-3 District with modifications to its allowable dimensions (Section 90.090-C.1).

LOCATION: 3814 West 41st Street South **(CD 2)**

Presentation:

David Jamison, 4207 South 33rd West Avenue, Tulsa, OK; stated he was contracted by his client to erect a standing carport on her property. The carport is larger than the standard 20 x 20 based on the new driveway they had poured.

Mr. Van De Wiele asked Mr. Jamison if the carport was 26 x 26. Mr. Jamison answered affirmatively.

Mr. Van De Wiele asked Mr. Jamison to speak to the roof line, the materials, and how it matches up with the house. Mr. Jamison stated all the materials were requested by the client; a metal roof for durability and an open plan so the trusses could be seen.

Mr. Van De Wiele asked Mr. Jamison if the principal house has a metal roof. Mr. Jamison did not think it does.

Mr. Van De Wiele asked Mr. Jamison if there had been any contact or discussion with any of the neighbors. Mr. Jamison stated there were a couple of conversations with neighbors by his client and they had no issues with the carport.

Mr. Brown stated that he has concerns with the open ends of the trusses and would prefer to see that closed off. Mr. Jamison stated he could discuss that option with his client.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a carport in the street yard and street setback in an RS-3 District with modifications to its allowable dimensions (Section 90.090-C.1), subject to conceptual plans 10.8 and 10.9 of the agenda packet. The gables are to be closed on the ends of the structure and the color of the metal roof be substantially close to the color of the existing asphalt shingle roof of the house. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT-2-BLK-3, LAUREL HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23038—Brian Jessel

Action Requested:

Special Exception to allow a fence to exceed 4 feet in height in a front street setback (Section 45.080-A); Special Exception to increase the permitted driveway width (Section 55.090-F); Variance to allow a non-all-weather parking surface material (Section 55.090-F). **LOCATION:** 7147 East King Street North **(CD 3)**

Presentation:

Brian Jessel, 7153 East King Street, Tulsa, OK; stated he has purchased the lot next to him and have combined them together. He would like to leave the six-foot wrought iron ornamental fence all the way around the perimeter for safety. He would like to have the all-weather surface for his RV that he uses for power for his medical equipment when there is a power outage. 73rd Street runs north and south, and it floods when it rains and the water comes up to his garage, and an all-weather surface would help with the drainage. Mr. Jessel stated that his main driveway that goes to his garage is on 73rd

Street and it is concrete. The drive that is on King Street is concrete for about 20 feet and then it is millings north and east; it makes an ell.

Mr. Van De Wiele asked if the driveway went all the way around the house. Mr. Jessel answered affirmatively stating that is so he can park his car on the other drive when it floods and exit onto King.

Ms. Radney asked Mr. Jessel if his RV was parked on a concrete pad. Mr. Jessel answered no and stated that it is parked on the asphalt millings. Ms. Radney asked Mr. Jessel if he would be opposed to parking the RV on a concrete pad. Mr. Jessel answered no.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond 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); Special Exception to increase the permitted driveway width (Section 55.090-F); Variance to allow a non-all-weather parking surface material (Section 55.090-F), subject to conceptual plan 11.12 of the agenda packet. The fence is to be an open type of fence as built. The Board finds the hardship for the Variance to be the existing flooding conditions and the length of driving surface to the current RV parking space. The RV is to be parked on a concrete pad large enough to accommodate the RV, north of the existing garage. 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. 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:

LT 20 BLK 7, VAL-CHARLES ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Brown left the meeting at 3:57 P.M.

23039—Apodaca Remodeling

Action Requested:

Special Exception to increase the permitted driveway width (Section 55.090-F).

LOCATION: 3515 East 100th Street South (CD 8)

Presentation:

Tanya Balandran, 3515 East 100th Street, Tulsa, OK; stated she would like to improve and expand the existing driveway making it an “U” driveway. She had begun work in March, but the project was halted. The existing drive is extremely steep, and many people do not feel comfortable driving down to the house so they will park on the street and walk to the house. The angle of the driveway will cause vehicles to scrape the underside of the car going down the driveway, so this is a safety issue. In January, her mother-in-law had parked on the street and fell down the driveway and was severely injured, and she has two members in the household that have physical limitations and it is almost impossible and not safe for them to walk up the driveway. Ms. Balandran stated that she is hoping to add the “U” drive to allow people drive down to the house and park on a flat area.

Mr. Van De Wiele stated that City Councilor Lakin reached out to him and asked that he take a look at the property, and Councilor Lakin stated that his office did have a position one or the other. Mr. Van De Wiele stated that he did go look at the subject property and he does not see a need to recuse from this case. There was not an indication of a desired outcome on the application, but just a request to take a look at the subject property.

Mr. Brown re-entered the meeting at 4:00 P.M.

Ms. Radney asked Ms. Balandran if she had any neighbors object to the driveway as it is currently partially completed. Ms. Balandran stated that no one has come to her with any complaints.

Mr. Browns asked Ms. Balandran why the curb cuts needed to be so wide. Ms. Balandran stated the existing driveway is the very steep and in order to safely use the circle drive and take off some of the angle it is necessary to cut into the grass closest to the street, so a person does not need to swing their car widely to come up the driveway. Ms. Balandran stated that because the driveway is so steep even the new portion of the driveway is still steep; it is challenging to see where you are going.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that he lives about a mile from the subject property, and he has pulled down the driveway of another house in the neighborhood and it is quite an experience; if the car is low to the ground it will scrape the underside and when pulling up the driveway the driver is actually looking into the sky and does not see anything else.

Board Action:

On **MOTION** of **BROWN**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to increase the permitted driveway width (Section 55.090-F), subject to conceptual plan 12.9 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 10 BLK 1, SILVER CHASE AMD, City of Tulsa, Tulsa County, State of Oklahoma

23040—Matt Bendel

Action Requested:

Special Exception to allow a Public, Civic & Institutional/Governmental Service Use or Similar Use to permit a spiritual counseling and charitable support facility and food bank in an RS-3 District (Section 5.020, Table 5-2). **LOCATION:** 4920 South Quaker Avenue East **(CD 9)**

Presentation:

Matt Bendel, 1347 East 49th Place, Tulsa, OK; stated he represents the Church of St. Mary's. The church is requesting a Special Exception to allow spiritual counseling and a charitable support facility on the subject property which is across from the existing facility.

Mr. Van De Wiele stated the agenda also lists "food bank", and he asked Mr. Bendel if that is part of the request as well. Mr. Bendel answered affirmatively. Part of the facility

will be a storage facility for the parish trailers that are currently parked on the parking lot and also for the work truck. It is a combination facility.

Mr. Van De Wiele asked Mr. Bendel if all the requested uses are conducted on the principal church property, or in the building located on the northwest corner of 49th and Quaker. Mr. Bendel stated the uses are located on the northwest corner of 49th and Quaker.

Mr. Van De Wiele asked Mr. Bendel what currently takes place on that corner. Mr. Bendel stated that currently the structure that is shown in the satellite images is no longer there, it is just an empty lot. Mr. Van De Wiele asked Mr. Bendel if he would be building the proposed structure seen on page 13.24 of the agenda packet. Mr. Bendel answered affirmatively stating that it is a proposed conceptual site plan that has not fully received a review from permitting.

Mr. Van De Wiele asked Mr. Bendel what does the spiritual counseling and food bank look like when it is fully operating? Mr. Bendel stated the outreach director is on the call and he would defer to her.

Jackie Fusco, 6867 East 56th Street, Tulsa, OK; stated the operation is open three days a week to the public from 9:30 A.M. to 12:00 Noon for an open pantry. From 1:00 P.M. to 3:00 P.M. the service is open for private meetings for financial assistance; the clients make an appointment. The operation has 10 to 15 volunteers at one time per shift and the clients are primarily from the 61st and Peoria area. The parish covers an area from 81st Street to 31st Street, from Riverside to Harvard, so anyone that lives in those three zip codes are taken care of. If someone comes into the facility and say they live in a different zip code they are referred to another agency closer to them.

Mr. Van De Wiele asked Ms. Fusco if the two time slots she mentioned were three days a week. Ms. Fusco answered affirmatively.

Mr. Brown asked Ms. Fusco how many people at any one time would be at the facility. Ms. Fusco stated the seating capacity is 4 to 5 clients and with staff included there would be about 15 people at one time.

Mr. Van De Wiele asked Ms. Fusco if the 4 to 5 clients was more for the counseling portion of the operation. Ms. Fusco stated that would be for the open pantry only. When it is time for counseling there is only one client at a time.

Mr. Brown asked Ms. Fusco where the people park. Ms. Fusco stated that primarily their clients are walk-ins, or they ride the bus, but there are two parking spaces on the street.

Ms. Radney asked if there had been any complaints from the neighboring residents or businesses. Ms. Fusco stated that the volunteers park in the church parking lot and the church parking lot is also available to clients for overflow parking.

Mr. Van De Wiele asked Ms. Fusco if the same services were offered at the primary church facility. Ms. Fusco answered affirmatively. Mr. Van De Wiele asked Ms. Fusco how long they had been offered. Mr. Bendel stated that Ms. Fusco has been director for two years and the church has been offering the services for about five years or longer.

Mr. Van De Wiele asked if this was a relocation of services from the neighboring St. Mary's facility to a future constructed facility. Mr. Bendel answered affirmatively, stating that a new community center being constructed and that is why these services are being relocated to a new piece of property.

Mr. Brown asked Mr. Bendel about the exterior materials for the proposed building. Mr. Bendel stated that the building will be a wood framed building with composite siding. The intent is to provide a design that looks more like a residence and also tie into the color scheme of the campus. Mr. Brown asked Mr. Bendel if the roof would be flat or pitched. Mr. Bendel stated that there will be trusses for a pitched roof.

Interested Parties:

Erica Meredith, 1549 East 49th Place, Tulsa, OK; stated her concerns are that there is any type of church activities the entirety of 49th Place is blocked with cars on both sides of the street, and it makes it very difficult to pass. There is not much parking so adding another facility will bottle neck the traffic on 49th Place. The existing facility has an issue with homeless people in the area; the house that is directly behind the vacant lot has had fires and break-ins from homeless people.

Jackie Fusco stated that she understands the parking would be increased with the new outreach facility and once the new construction is completed on the community center that parking area will also open up for overflow parking. Mr. Van De Wiele asked Ms. Fusco if there would be more off-street parking once the construction is complete than there is currently. Ms. Fusco answered affirmatively.

Mr. Brown asked if meals were handed out to people in cars for the food project portion. Ms. Fusco stated that prior to COVID the client would come into the outreach center and complete an in-take form, and then the volunteers would pack that client grocery bags full of dry goods so that it would be more of a grocery store experience rather than a soup kitchen experience.

Ms. Shelton asked what the plan is to mitigate any situation that would be similar to the center located on Admiral Boulevard, because that traffic can be heavy. Ms. Fusco stated since the facility was considered one of three food places their facility did a pre-packaged food distribution and did not allow anyone to come into the building. The center did not have anyone fill out an in-take form, but the volunteers did take names and zip codes, and handed the person groceries so there was no physical contact. If the pandemic is still going on when the new building is complete, they will follow the same protocol.

Matt Bendel stated that as part of the last Special Exception that was approved earlier in the year, there will be on-street parking added along 49th Place as part of community center project, 12 spaces and it has been approved by the City of Tulsa and the permitting process. The parking will be on the southeast corner of 49th Place and Quaker, not to mention all the parking available on Quaker on the east side.

Mr. Van De Wiele stated that he thought he was hearing that the parking would be in the church parking lot, he is more concerned when he is hearing is there be parking on the street. Mr. Bendel stated the volunteers working at the outreach will be utilizing the existing parking on the campus. As far as the Code required parking, the site plan should have enough parking spaces. Mr. Van De Wiele stated that in looking at page 13.22 of the agenda packet, how many parking spaces are there? Mr. Bendel stated there are four parking spaces with a van accessible space, five total parking spaces on 49th Place which is four parking spaces more than the previous outreach center.

Jackie Fusco stated that about 90% of the clientele are on foot and the center works with only three zip codes. To compare this center to the one located on Admiral where there is a line of cars waiting to be helped, this food pantry will not be that big. This pantry is just for the 61st and Peoria area.

Ms. Radney asked Ms. Fusco is she knew how many households per month or per week that the pantry serves. Ms. Fusco stated that the center serves about 370 households a month.

Mr. Van De Wiele asked if this service was once a month or once a week. Ms. Fusco stated that it is once a month, but through the pandemic the pantry was open. In a regular year, the service is once a month.

Mr. Brown asked Ms. Fusco how food was delivered to the food bank. Ms. Fusco stated this is not a food bank, it is a food pantry, so food is not supplied to other agencies that need food for their pantries. This agency goes to a food bank in the parish pick-up truck and bring the food back to the center.

Comments and Questions:

Ms. Radney stated that she was excited to hear that there would be additional parking to the program of the corner, because of the new structure across the street, but it sounds like they have received a Special Exception to accommodate its parking load on the street she would not be willing to approve this without at least the five dedicated parking spaces. Ms. Radney stated that she does not think the issue is parking, she thinks it is traffic flow.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to allow a Public, Civic & Institutional/Governmental Service Use or Similar Use to permit a spiritual counseling and charitable support facility and food bank in an RS-3

District (Section 5.020, Table 5-2). A minimum of five dedicated parking spaces be created on the programming for the property. 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 8 BLK 18, BELLAIRE ACRES SECOND EXT, City of Tulsa, Tulsa County, State of Oklahoma

23041—Hall Estill – Amanda Lowe

Action Requested:

Special Exception to permit Moderate-Impact Medical Marijuana processing (Moderate-impact Manufacturing & Industry Use) in the IL District (Section 15.020, Table 15-2). **LOCATION:** 1711 North Sheridan Road East **(CD 3)**

Mr. Van De Wiele recused and left the meeting at 4:37 P.M.

Presentation:

Amanda Lowe, 320 South Boston, Tulsa, OK; stated she represents Baker Street Holdings, they are the owner of the subject property. The owner would like to enter into a lease agreement with a tenant who plans to use a portion of the building as a medical marijuana processing facility, and they will use carbon dioxide extraction process. Under the Code moderate impact manufacturing includes the carbon dioxide extraction process and that is allowed by a Special Exception in the Industrial Light District. The entirety of the processing use will be indoors in an enclosed building. The applicant is aware of the ventilation and air filtration system requirements and is currently working with an architect. There will not be a significant number of employees and there is not a concern about an increase in traffic flow. The applicant is also aware of the electronic security system and surveillance system requirements and they will comply with all other State and local requirements.

Mr. Brown asked Ms. Lowe about the building size. Ms. Lowe stated that it is a basic manufacturing building currently and she is not certain of the size. Mr. Brown asked Ms. Lowe if the entire would be used for the medical marijuana processing. Ms. Lowe answered no, only a portion of the building be used but the applicant would like to have the Special Exception for the entire building for possible future use.

Ms. Radney asked Ms. Lowe if she knew how long the lease on the building is. Ms. Lowe stated that she does not know that information but would assume it is for a substantial amount of time. Ms. Radney asked Ms. Lowe how long she thought a substantial amount of time would be. Ms. Lowe stated that she did not know.

Interested Parties:

Bill Foote, 7134 West 42nd Street, Tulsa, OK; stated he envisioned an arrangement of three to five years. He is anticipating approximately 1,500 to 1,600 square feet of space within the existing building for the proposed purpose. The existing building is approximately 12,000 square feet.

Ms. Radney asked Mr. Foote if the Board were to limit this request in time what would he think would be appropriate amount of time. Mr. Foote stated that he would like to have five years which is a typical lease arrangement for a commercial endeavor.

Ms. Shelton asked Mr. Foote if there would be any outdoor storage. Mr. Foot answered no.

Sue Slama, 13115 East 73rd Street North, Owasso, OK; stated she represents her 89-year-old father who owns property about 300 feet away from the subject property. Ms. Slama stated that she is concerned about air quality, concerned about the noise factor, concerned about the traffic, concerned about security, and concerned about property values. Ms. Slama also concerned about possible signage for the business.

Rebuttal:

Amanda Lowe came forward and stated she understands all Ms. Slama's concerns, but the process will be entirely enclosed indoors. All air filtration and ventilation system requirements will be complied with, so there will be no odor issues. This is not a dispensary so there are no concern of foot traffic and people may not even know the facility is there. As for traffic and the number of employees, this is a small space so there will not be a significant number of employees and there will be no clientele coming to the building. All the security requirements will be met, and everything will meet the Code.

Ms. Radney asked Ms. Lowe what the current use of the building is. Ms. Lowe stated that it is manufacturing and fabrication facility.

Ms. Radney asked Mr. Foote about the noise factor. Mr. Foote stated the building was a former Dolly Madison facility in 1964, and it has been a manufacturing site and is currently an IL site. Mr. Foote stated that he does light machining and light fabrication work, which is consistent with the processing of a CO2 extraction. The noise would be no different than if he were to place another CNC machine in the building. Mr. Foote stated that currently there are 6 employees and have had as many as 10 employees. There may be one or two more employees at maximum associated with the proposed activity. There will be no additional traffic of any type. There should be no noticeable change to the current activity that is in the facility today. To be compliant with the OMMA requirements he has to address the air quality, and there is no noise associated with the proposed use because it is a silent process.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BROWN**, the Board voted 3-0-1 (Brown, Radney, Shelton "aye"; no "nays"; Van De Wiele "abstaining"; Bond absent) to **APPROVE** the request for a Special Exception to permit Moderate-Impact Medical Marijuana processing (Moderate-impact Manufacturing & Industry Use) in the IL District (Section 15.020, Table 15-2), subject to conceptual plan 14.7 of the agenda packet. The approval will have a time limit of seven years, December 8, 2027. 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:

RESERVE A BLK 2, SPARTAN COURT SECOND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele re-entered the meeting at 4:54 P.M.

23043—James Dupree

Action Requested:

Special Exception to permit Commercial/Vehicle Sales & Service/Personal Vehicle Sales & Rentals use in a CS District (Section 15.020, Table 15-2); Variance to permit the outdoor storage and display of merchandise in a CS District within 300 feet of an abutting R District (Section 15.040-A). **LOCATION:** 436 South Utica Avenue East **(CD 4)**

Presentation:

James Dupree, 2025 East Admiral Boulevard, Tulsa, OK; stated he has been in the antique business about 30 years and he would like to obtain a used car dealership license. He has a warehouse on South Utica, and he parks a vehicle there with a For Sale sign on it, and he found out that Department of Motor Vehicles requires him to have a dealership license to do that. There will be no remodeling of the existing structure, all he wants to do is park a vehicle there with a For Sale sign on it.

Mr. Van De Wiele asked Mr. Dupree how many vehicles he plans to have for sale on the subject property. Mr. Dupree stated that he will only have one at a time.

Mr. Van De Wiele asked Mr. Dupree if the vehicle for sale be operable. Mr. Dupree answered affirmatively.

Ms. Radney asked Mr. Dupree if he would be parking the vehicle from the driveway. Mr. Dupree answered affirmatively.

Ms. Shelton asked Mr. Dupree if he would have any signage in the future. Mr. Dupree answered no.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to permit Commercial/Vehicle Sales & Service/Personal Vehicle Sales & Rentals use in a CS District (Section 15.020, Table 15-2); **Variance** to permit the outdoor storage and display of merchandise in a CS District within 300 feet of an abutting R District (Section 15.040-A). The approval will have a time limit of five years, December 8, 2025. The sales will be limited to one vehicle at a time. The vehicle is to be parked in the driveway and not in the City of Tulsa right-of-way. The Variance approved is related to the display of the vehicle mentioned in 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. 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:

E/2 OF LT 4 BLK 5, HACKATHORN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele announced at 5:07 P.M. that the Board will recess for today and reconvene tomorrow at 1:00 P.M. in City Council Chambers.

Mr. Chapman announced participants and interested parties may attend tomorrow's reconvened meeting at 1:00 P.M. in City Council Chambers located 175 East 2nd Street, Second Level. A person may also attend remotely, and the details are available on the posted notice in the front of City Hall located at 175 East 2nd Street, or at INCOG, 2 West 2nd Street, Suite 800, or they are available on-line at TulsaPlanning.org.

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1263
Wednesday, December 9, 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 Radney, Secretary Brown Shelton	Bond, Vice Chair	Wilkerson Chapman Sparger	Blank, Legal

The City Board of Adjustment was held by videoconferencing and teleconferencing via **GoToMeeting**, an online meeting and web conferencing tool. Members of the public will be allowed to attend and participate in the Board of Adjustment's meeting via videoconferencing and teleconferencing by joining from a computer, tablet or smartphone using the following link:

<https://www.gotomeet.me/CityOfTulsa/boa-gotomeeting-in-council-chambers-december-9th>

* * * * *

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

* * * * *

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today. Most motions the Board makes it 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 that 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.

Mr. Van De Wiele stated that in the interest of time, the applicants will be limited to five minutes for their presentation, interested parties limited to three minutes, and the applicant will be allowed two minutes for rebuttal. Today the agenda will begin with Item #16.

NEW APPLICATIONS

23044—Jimmy Wheeler

Action Requested:

Variance to allow the top plate of a detached accessory building to exceed 10 feet in height (Section 90.090.C); Variance to allow the floor area of detached accessory buildings to exceed 40% of the floor area of the principal residential structure (Section 45.030-A). **LOCATION:** 3909 West Admiral Boulevard **(CD 1)**

Presentation:

Jim and Vicki Wheeler, 3909 West Admiral Boulevard, Tulsa, OK; stated he would like to have a building where he could store his tractors, lawn mowers, and a trailer that he uses for work, and have a small workshop. Mr. Wheeler stated that he cannot erect the building near the driveway because of utility pipelines.

Mr. Van De Wiele asked Mr. Wheeler if there was an old railway behind the proposed site for the building. Mr. Wheeler stated that it is the jogging trail, but it was the former Katy Railroad.

Ms. Radney asked Mr. Wheeler if he owned the property located to the west. Mr. Wheeler answered affirmatively. Ms. Radney asked Mr. Wheeler what his zoning is for the subject property. Mr. Wheeler stated that he does not know. Mr. Chapman interjected that the property is zoned RS-3.

Ms. Shelton asked Mr. Wheeler if the tall door on the building was to accommodate his tractor. Mr. Wheeler answered affirmatively.

Ms. Wheeler stated that she contacted the neighbors, and no one had any objections.

Mr. Van De Wiele asked about the property directly south of the subject property. Ms. Wheeler stated that property to the south is a church with a parsonage.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to allow the top plate of a detached accessory building to exceed 10 feet in height (Section 90.090.C); Variance to allow the floor area of detached accessory buildings to exceed 40% of the floor area of the principal residential structure (Section 45.030-A), subject to conceptual plans 16.11 and 16.12 of the agenda packet. The Board has found the hardship to be the size of the parcel on which the proposed building sits and the tools that are required to take care of said parcel. 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:

BEG 155.5E SWC SW SW NE TH E210 N404.5 TO RY TH SWLY225 S310 POB SEC 4 19 12 1.722AC, City of Tulsa, Tulsa County, State of Oklahoma

23045—M. Scott Pohlenz

Action Requested:

Special Exception to permit the alteration, expansion or enlargement of a structure with an existing non-conforming side setback (Section 80.030-D); Variance of the

25-foot rear setback in an RS-2 District (Section 5.030, Table 5-3). **LOCATION:**
2251 East 26th Street South **(CD 4)**

Presentation:

Scott Pohlenz, 3402 South Peoria Avenue, Tulsa, OK; stated he is the architect for the homeowner. His client does not have the ability to use their existing garage, the doors are undersized and if they could be used it only offers one car space storage. What he proposes is to create a tandem layout garage with a single-story addition for the garage function to the rear of the property. That would allow two cars to park in line with each other. The space that is above the garage is the master bedroom for the house and he proposes a patio deck that homeowners could walk on to from the master bedroom. There would be screening with an outdoor fireplace and some exterior walls that would block views into the neighbor's yards. He has had a couple of e-mails from neighbors that indicated there were concerns about privacy, and at that time the walls to the west and to the north were proposed to be about 42" in height, but after getting the neighbor's input he proposed to raise the walls up to 6'-5" which would align with the existing soffit on the master bedroom walls. The pergola would be about 7'-10" and that wall would be solid. Mr. Pohlenz stated that he has created a solution to the privacy issue that protects people from both directions. On the side yard the structure is already non-compliant to the five feet thus the Special Exception request.

Mr. Van De Wiele asked Mr. Pohlenz if the edge of the features that is being requested on the deck line up with the exterior wall of the proposed garage addition. Mr. Pohlenz answered affirmatively. Mr. Van De Wiele asked Mr. Pohlenz how much of the planned deck feature cover on the roof of the proposed addition. Mr. Pohlenz stated he was going to cover the entire roof. Mr. Van De Wiele asked Mr. Pohlenz if the pergola was open. Mr. Pohlenz stated the pergola is a grid system for shading but is open to the sky.

Interested Parties:

Thad Dale, 2243 East 26th Street South, Tulsa, OK; stated he is adjacent to the west of the subject property. He does not have a problem with the structure to address the alleged hardship, he is okay with the single-story structure with a normal pitched roof, but his issue is privacy. Mr. Dale stated that it appears there was a change made this morning to alleviate that concern, but he has a lot of views in his back yard. His area will be looking at the structure and if it were open the people could look into the house. He also has a concern about noise because it appears the proposed TV is oriented toward the south, and he is concerned that noise from a deck at that height would carry farther. He has a concern with the structure keeping in the character of the neighborhood, it does not look like it fits in. Mr. Dale stated that he has lived in his house for nine years and done two major additions, upgraded the property so he does like to see progress, but he just wants to have something that he can live with. He would like for the Board to consider the noise factor and the appearance of the structure.

Mr. Van De Wiele asked Mr. Dale if the fence between him and the subject property is a six-foot fence. Mr. Dale answered affirmatively.

Lisa Doyle, 2244 East 25th Place, Tulsa, OK; stated that where the proposed structure will be built will overpower her back yard. Ms. Doyle stated she has the same issues as Mr. Dale. Ms. Doyle stated that she was not aware that the addition of the garage would also mean a second story structure. Ms. Doyle stated that she has lived in her house for 20 years and the previous homeowner of the subject property lived there over 23 years, and at one time they had four drivers and four cars that occupied the residence, and they were able to maintain with the structure that is in place today. It is one thing to an addition to a garage space, but it is a completely separate thing to add a second story outdoor entertainment area. This addition will be a huge concern from the noise perspective as well as a privacy issue. Ms. Doyle stated the subject property homeowner remove two large trees this summer, and she thinks it was to prepare for the addition. The proposed structure will face her master bedroom door and they would be able to see into her sunroom, as well as it takes away the privacy and enjoyment of her backyard.

Kenneth Dornblaser, 2240 East 25th Place, Tulsa, OK; stated he backs up to Mr. Dale and is west of Ms. Doyle. Mr. Dornblaser stated that he had submitted an e-mail to Mr. Pohlenz, and he thanks Mr. Pohlenz for his response. His major issues at that time were privacy and he thinks Mr. Pohlenz has attempted to take care of some of that. Mr. Dornblaser stated his concern is that this will set a precedent, because if Mr. Dale wanted to do the same thing, he would probably be fighting him too.

Mr. Van De Wiele stated the Board certainly has seen roof top decks or second story decks, some of which may be similar to this project, some of which may be very different from this project. All Board of Adjustment cases are one of and unique and they do not carry precedential value. Mr. Van De Wiele stated that he certainly understands the concern that people are expressing.

Rebuttal:

Scott Pohlenz stated all the comments are taken into consideration and privacy to the homeowner is also concerned about. In terms of the character of the neighborhood, the subject house has a painted siding, and he is proposing to extend the matching siding to create the same wall finish. The pergola structure is proposed to be a type of cedar, and if the elevation needed to be amended it could be, he is just trying to break up the elevation. As for noise, the TV shown in the sketch was a very early sketch but after he submitted the plan it was ultimately deemed the homeowner did not want a TV, just a quiet space. So from the noise factor, this is not a party entertainment space it is a private space off the master bedroom. With the walls extending upward where they are now coming out of the master bedroom a person would not be able to see into the property behind. The tree removal was not done as part of this project, there was a very large tree that had roots very close to the surface and there was no way for the client to get any grass to grow in the yard, so the trees were removed to address that

issue. The homeowner plans to plant tall evergreens that would create additional shielding.

Mr. Van De Wiele asked Mr. Pohlenz if there was a stairway feature depicted in one of the plans. Mr. Pohlenz answered affirmatively. Mr. Van De Wiele asked Mr. Pohlenz about the necessity of a stairway to access the deck top from the backyard. Mr. Pohlenz stated the house has existing pergolas on the east side of the house on the grade level, on the Lewis side, and the thought was instead of going all the way through the house if the homeowner wanted to join the family in the backyard the stairway would allow them quicker access.

Comments and Questions:

Mr. Van De Wiele asked Mr. Wilkerson if the homeowner would have the right to build a two-story structure inside the five-foot setback and inside the 25-foot rear setback by right. Mr. Wilkerson stated the homeowner would have the right to build a structure 35 feet in height, so whether it is one-story or two-story.

Mr. Van De Wiele stated that the one-story portion of the garage seems to be less of an issue, and he thinks he could approve that portion. He is having a difficult time with the hardship for the deck. What he is seeing he thinks would turn into a larger entertaining area than just a quiet space off the master bedroom. The size of it seems to encourage more than a use for two.

Mr. Brown wonders why this is proposed for the second story instead of on the ground, because the kitchen is on the ground floor. He also agrees with the noise concerns. He does not think the deck will be a place for just two people to quietly contemplate life. Mr. Brown also thinks the second story is an intrusion on the tightness of the adjacent properties, and he does not care for that.

Ms. Shelton thinks there is a valid hardship to encroach into the rear setback, because if the homeowner were to add on to the garage there is only one place to place the addition.

Ms. Radney stated that she would be reluctant to limit the height of the proposed structure today if the Board were in fact to tell the applicant that the proposed structure could be built to this space. As example, the applicant could have just said he wanted to build a single-story addition. Ms. Radney stated she sees the hardship and she also understands the neighbor's concerns, but with the additional screening it would be no different than building a livable space in a second story with clear windows.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for a Special Exception to permit the alteration, expansion or enlargement of a structure with an existing non-conforming side setback (Section 80.030-D); Variance of the 25-foot

rear setback in an RS-2 District (Section 5.030, Table 5-3) to the January 12, 2021 Board of Adjustment meeting; for the following property:

E.10-LT-18-ALL LT-19-BLK-8, WILDWOOD, City of Tulsa, Tulsa County, State of Oklahoma

23046—Josh Miller

Action Requested:

Variance to allow the continued use of a non-all-weather parking surface previously approved in BOA-22557 and BOA-22336 (Section 55.090-F).

LOCATION: South of the SE/c of East 31st Street South and Riverside Parkway (Gathering Place South of Crow Creek) **(CD 9)**

Ms. Shelton recused and left the meeting at 2:00 P.M.

Presentation:

Josh Miller, 7030 South Yale, #600, Tulsa, OK; stated this is a temporary parking lot for the Gathering Place and it is very effective in managing large crowds, and a lot has changed since his last appearance before the Board. As a result of the children's museum construction an ADA accessible ramp has been installed that helps people get underneath Riverside Drive safely onto the main trail into the park. Mr. Miller had several pictures placed on the overhead pictures and he explained the routing of pedestrian traffic. Once the children's museum is constructed there will be a sidewalk connected to the bridge sidewalk and it will allow pedestrians to walk to the 31st Street intersection safely. There was a notice sent to the neighbors and the neighborhood is quite pleased in how the parking has been managed and how it has been kept in good shape. The Kaiser Foundation owns all the houses and empty lots along 33rd Place so there is a buffer between the neighbors and any complaints from the neighbors are always addressed. Over the next two years, assuming the pandemic eliminates next year as a regular attendance year, it is going to be at least the end of 2022 before it is known what a normal attendance year at the park is, so they do not want to remove all potential parking options at this point that have been so effective. The reason five years were requested is because of not knowing exactly what the parking demand will be.

Mr. Van De Wiele asked Mr. Miller, in looking at page 18.7, if he is asking for the temporary relief for the children's museum site be gone. Mr. Miller answered affirmatively. And only applicable to the subject tract for an additional period of five years. Mr. Miller answered affirmatively. Mr. Van De Wiele asked Mr. Miller what the current time frame for the children's museum to be completed. Mr. Miller stated the children's museum should be open about the early fourth quarter of 2021, and it will have approximately 175 parking spaces on that site which are more than adequate for the museum.

Mr. Van De Wiele asked Mr. Miller what the ultimate plan is for the subject tract, is it planned to be just a parking lot or is it an additional park features? Mr. Miller stated that it could be all of what was said, but he is uncertain at this time.

Mr. Van De Wiele stated that he looked at the history of the site, September 2014 was the first case before the Board, and his general concern is that it is now six years and temporary is about 11 years. Obviously, it is an incredible improvement and a great city feature but at some point, the gravel parking lot business has to go away. Mr. Miller stated the condition on the construction building is gone and this is separate. Mr. Van De Wiele stated that the temporary parking lot was October 2017 and that is three years ago, and he would still say that eight years is more than temporary, that is his concern.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-0-1 (Brown, Radney, Van De Wiele "aye"; no "nays"; Shelton "abstaining"; Bond absent) to **APPROVE** the request for a Variance to allow the continued use of a non-all-weather parking surface previously approved in BOA-22557 and BOA-22336 (Section 55.090-F), subject to conceptual plan 18.7 of the agenda packet. The Board has found the hardship to be the continued operation of the temporary lot is actually providing additional parking to make the use of the park less burdensome for the adjoining neighborhood while the park is still under development. This approval will expire January 31, 2024 and will apply to the subject tract shown in page 18.7 of the agenda packet. 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:

Lots 1, 2 and 3 Block 1, 3200 Riverside Drive Addition, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Shelton re-entered the meeting at 2:27 P.M.

23047—Tanner Consulting, LLC

Action Requested:

Special Exception to increase the permitted driveway width on the lot inside the street setback (Section 55.090-F). **LOCATION:** 11541 South Marion Avenue East (CD 8)

Presentation:

Eric Enyart, Tanner Consulting, 5323 South Lewis Avenue, Tulsa, OK; stated the subject property is a wedge-shaped lot, it is narrower along the street boundary, but it flares out toward the rear. The lot does meet the 50% maximum under the Zoning Code.

Mr. Van De Wiele asked Mr. Enyart how wide the driveway is at the property line and how wide is it against the house. Mr. Enyart stated that along the actual street boundary it is 32.72 feet in width and going back to the 25-foot building setback line it is 55.03 feet in width. The driveway itself, in order to flair out and reach the third car garage the client is asking for 27'-3" which is within 50% of the lot frontage restriction. The house is set back 33'-6" from the street frontage.

Mr. Van De Wiele asked Mr. Enyart if looking at page 19.22, by comparison, is what is being planned similar in size and scope to the property to the south, the other cul-de-sac property? Mr. Enyart stated it does look similar. One unique features of the subject lot is that it is separated from the other lot by 20'-0" reserve area, so the house will be more physically separated from the other driveway but also separated visually.

Mr. Van De Wiele asked Mr. Enyart if it was a detention feature between the two houses. Mr. Enyart stated it is a drainage feature.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to increase the permitted driveway width on the lot inside the street setback (Section 55.090-F), subject to conceptual plans 19.5, 19.6, 19.7, 19.8, 19.9, 19.10, 19.11, 19.12, 19.13, 19.14, 19.15, 19.16, 19.17, 19.18, 19.19 and 19.20 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:

LOT 14 BLOCK 1, DELAWARE PARK,, City of Tulsa, Tulsa County, State of Oklahoma

23048—Tanner Consulting, LLC

Action Requested:

Special Exception to increase the permitted driveway width on the lot inside the street setback (Section 55.090-F). **LOCATION:** 11541 South Marion Avenue East (CD 8)

Presentation:

Eric Enyart, Tanner Consulting, 5323 South Lewis Avenue, Tulsa, OK; stated the subject property is in the southeast corner of the neighborhood, and this lot is in the same situation as the previous case.

Mr. Van De Wiele asked Mr. Enyart what the driveway width is at the street and inside the street setback. Mr. Enyart stated the driveway width at the street is 55'-0" of frontage and 35'-8" at the required setback line.

Mr. Van De Wiele asked Mr. Enyart if he was wanting the relief at the street setback line. Mr. Enyart answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to increase the permitted driveway width on the lot inside the street setback (Section 55.090-F). The driveway width measured at the front building setback line shall measure 27'-6" or less. 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 6 BLOCK 2, DELAWARE PARK, City of Tulsa, Tulsa County, State of Oklahoma

23049—Justin Kingsley

Action Requested:

Variance to permit a swimming pool within the required 35-foot side street setback (Section 5.030, Table 5-3 & Section 90.090, Table 90-1). **LOCATION:** 1306 East 26th Street South **(CD 4)**

Presentation:

Justin Kingsley, 3301 East 176th Street North, Skiatook, OK; stated the client would like to have swimming pool. The house has a garage on the back with a driveway that goes all the way back which prohibits placing the pool in the rear. The only access door to the backyard is on the west side of the property and it opens up onto an existing deck. The original pool size has been shrunk to allow for the pool edge to be five feet from the house. The wooden deck will be removed and there will be no decking on the west side, it will be a raised wall. There are power lines running along the south property line and the pool will be 32 feet from the center of Peoria.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to permit a swimming pool within the required 35-foot side street setback (Section 5.030, Table 5-3 & Section 90.090, Table 90-1), subject to conceptual plan submitted today. The Board has found the hardship to be the site location is on a corner as well as being on an arterial street corner, and existing conditions prevent the pool being elsewhere on the lot. 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:

LT 16 BLK 2, TRAVIS HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23050—Cody Welch

Action Requested:

Minor Special Exception to amend a previously approved site plan for a Moderate-Impact Medical Marijuana processing (Moderate-impact Manufacturing & Industry Use) in the IL District (Section 70.120). **LOCATION:** 165 South 122nd Avenue East **(CD 3)**

Presentation:

Cody Welch, 2878 East 34th Street, Tulsa, OK; stated the Board approved his proposition in August and he now has to rename is area to Suite C on the advisement of Adam Murray in the Permit Office. He has to move a bathroom door to be compliant with the City of Tulsa and OMMA.

Mr. Van De Wiele asked Mr. Welch if he would now be doing business in Suite C and not in Suite B. Mr. Welch stated the whole area was Suite B and his proposed area is a 10 x 20 room within Suite B, and that room has been redesignated as Suite C with the City of Tulsa.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Minor Special Exception to amend a previously approved site plan for a Moderate-

Impact Medical Marijuana processing (Moderate-impact Manufacturing & Industry Use) in the IL District (Section 70.120) approved in Case BOA-22981, subject to conceptual plan 22.6 of the agenda packet and designated as Suite C on the conceptual plan. 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 8 BLK 3, EASTGATE INDUSTRIAL PARK THIRD ADDN RESUB, City of Tulsa, Tulsa County, State of Oklahoma

23051—William Bell

Action Requested:

Special Exception to permit a 12-foot wall in the front street setback and a 10-foot wall around the perimeter (Section 45.080-A); Variance to allow a wall to be located inside the City of Tulsa right-of-way or planned right-of-way (Section 90.090-A). **LOCATION:** 3514 South Yale Avenue East **(CD 9)**

Presentation:

William Bell, 2 East Broadway Street, Sand Springs, OK; stated the project is to allow a ten-foot sound/security wall on the front easement of the subject property. The issue is that there are easements around the entire property that he was not aware of during the original permitting process and construction has already started. The wall is built, and he would like to have the wall stay as constructed.

Mr. Van De Wiele asked Mr. Bell if he was asking for a twelve-foot wall on the front and a ten-foot wall around the remainder of the property. Mr. Bell answered affirmatively.

Mr. Van De Wiele asked Mr. Bell what type of easements are surrounding the property. Mr. Bell stated they are utility easements. On the south side there is a sanitary sewer easement; a quarter of the sewer is on the subject property. On the north side there are power lines.

Mr. Van De Wiele asked Mr. Bell to explain how the easements necessitate a taller wall. Mr. Bell stated the front wall is one item and it is currently in the Tulsa right-of-way. The second issue is the ten-foot-tall wall around the perimeter inside an easement.

Mr. Van De Wiele asked Mr. Bell why is the homeowner wanting a twelve-foot wall in a location where there normally would only have a four-foot wall or fence, and why does the homeowner want a ten-foot wall where there would otherwise normally only be allowed an eight-foot wall? Mr. Bell stated that during construction, when the project was first started, there was a six-foot chain link construction fence that was continuously broken in to, and through the first eight months of the project the lock and chain on that fence was replaced seven times and then overnight security was hired to sit in front of the house for four months. With the wall built the theft ceased. His client lived on the

property as a child and he is a well-known businessman and wants his privacy and protection for his family. The homeowner is concerned about someone being able to jump a four-foot fence and a person cannot climb or jump a ten-foot wall.

Mr. Van De Wiele asked Mr. Bell to explain what the planned finish of the fence will be when it is completed. Mr. Bell stated the planned finish is white stucco and stucco columns, and landscaping appropriately placed to soften the wall.

Mr. Van De Wiele asked Mr. Bell if the columns were twelve feet or is it the wall that is twelve feet tall? Mr. Bell stated the columns are twelve feet and the wall is ten feet, but there will be two feet of decorative iron work on the top. There will be two gates that will be iron, and they will match the iron on top of the wall.

Mr. Brown asked Mr. Bell if all the walls were sitting in easements. Mr. Bell stated that there is a section of the fence that sticks out farther than the rest of the wall and that section is 112 feet long, and on each side of that the wall jumps inside the right-of-way so there is 112 feet in the right-of-way.

Mr. Chapman informed the Board that the easements around the perimeter are not being relieved at this hearing, the applicant would still need to have those addressed by City Engineering. Mr. Chapman stated that he has discussed this with the applicant and has referred him to Chris Kovac with the City of Tulsa Engineering. Mr. Bell stated that he is currently working with Chris Kovac.

Mr. Van De Wiele asked Mr. Bell if the gates were in the planned right-of-way. Mr. Bell answered no.

Mr. Van De Wiele asked Mr. Wilkerson if the gates were compliant with driving surface and sidewalks. Mr. Wilkerson stated that in the past, if the Board supports the idea of the height and if this is in the planned right-of-way or the right-of-way, either one, the Board has approved a fence at a certain height in conjunction with that approval there was a provision to obtain approval for the gate location. In that proposal the plan was to place the gate in the planned right-of-way, and in this plan, it looks like the gate is outside of the planned right-of-way.

Mr. Chapman stated that the subject property has never been platted and he thinks there is only 50 feet dedicated right now, so there is ten feet that is considered planned right-of-way.

Mr. Bell stated that the next item would be the wall and the structure, a garage, on the south side of the property. The garage is currently five feet into the utility easement.

Mr. Brown asked Mr. Bell if the garage was already built. Mr. Bell stated the garage is not built but the footings are poured, but the slab is not poured.

Mr. Van De Wiele asked Mr. Chapman about what Mr. Bell stated about the garage because he does not see a request regarding a garage. Mr. Chapman stated that he did not know. Mr. Chapman stated the Board is dealing with the wall height in the front and the right-of-way; the Board cannot do anything about the easements.

Ms. Radney asked Mr. Bell if he had the mortgage plat before the site was planned. Mr. Bell answered no. Mr. Bell stated he did not receive the mortgage plat inspection; when it was brought to his attention that the property was an unplatted piece of land and that there were easements involved that is when he requested more information from his client and that is where he found the mortgage inspection report. Ms. Radney stated that she thinks that right now the Board is looking at is not mortgageable.

Mr. Van De Wiele asked Mr. Bell if the plan depicted on page 23.7 was submitted for building permits. Mr. Chapman stated that it is his understanding that it was, but at this point what Mr. Bell was cited for is for the erection of the wall. Mr. Van De Wiele asked if the wall or the wall height not shown on the building permit. Mr. Chapman stated the applicant did not receive approval for the wall, he submitted after the wall was already up. Mr. Bell stated that because it was a private piece of property, he did not understand that he needed to get a wall or fence permit. Mr. Van De Wiele asked if the wall was shown on the original building permit? Mr. Bell stated the wall was shown on his original site plan. Mr. Van De Wiele asked Mr. Chapman if that had not been caught at the zoning review. Mr. Chapman stated that it should have been, but he does not know if the height of the fence was shown.

Mr. Van De Wiele asked Mr. Bell where the fence makes the transition from eight feet to ten feet. Mr. Bell stated that it makes the transition at the south and north property corners.

Ms. Shelton asked Mr. Bell if the gates were intended to be both entrance and exit gates. Mr. Bell stated the plan is to have the north gate as the entrance and the south gate as the exit based on the current curb cuts.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Radney stated that she has not heard a hardship for the height of the block wall. Mr. Van De Wiele stated the request is a Special Exception, so no hardship is required.

Mr. Van De Wiele stated that twelve feet is awfully tall. There are areas in Tulsa along arterial streets that the Board has allowed six-foot chain link fences and eight-foot wrought iron fences, but he does not remember a twelve-foot wall around a house anywhere in Tulsa.

Ms. Radney stated that she would be a hard no vote on anything over eight feet and probably a no for the location of the Variance request.

Mr. Van De Wiele suggested a continuance in this case to allow the applicant to bring another plan for consideration. Mr. Van De Wiele stated that he hates to put projects on hold but that the nature of what happens when a person builds without a permit.

Mr. Chapman informed Mr. Bell that the issue of trying to get something approved through Engineering, they will not give him an answer until an application is filed. He does not know what design the wall actually went through but the City will want to see something from a Structural Engineer regarding the wall.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for a Special Exception to permit a 12-foot wall in the front street setback and a 10-foot wall around the perimeter (Section 45.080-A); Variance to allow a wall to be located inside the City of Tulsa right-of-way or planned right-of-way (Section 90.090-A) to the January 12, 2021 Board of Adjustment meeting; for the following property:

PRT SE NE BEG NEC N/2 S/2 SE NE TH W280 S195.11 E280 N195.11 POB LESS E50 THEREOF FOR RD SEC 21 19 13 1.03AC, City of Tulsa, Tulsa County, State of Oklahoma

23052—Back Land Use Planning – Carolyn Back

Action Requested:

Variance to reduce the required 15-foot side yard setback (Section 5.030-B, Table Note 3). **LOCATION:** 1917 East Archer Street North **(CD 3)**

Ms. Shelton recused and left the meeting at 3:38 P.M.

Presentation:

Carolyn Back, Back Land Use Planning, 632 East 3rd Street, Tulsa, OK; stated the requested Variance is to go from a 15-foot side yard setback to a 13-foot side yard setback. The subject property is part of the Cherokee Heights plat filed in 1910, and it was platted with inadequate corner lot width prior to the adoption of the City of Tulsa Zoning Code. The two feet is needed to accommodate the width of a modest modern sized house. There is a planned garage with a driveway entering from Archer Street.

Mr. Van De Wiele asked Ms. Back if the house would front on to Xanthus. Ms. Back answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-0-1 (Brown, Radney, Van De Wiele "aye"; no "nays"; Shelton "abstaining"; Bond absent) to **APPROVE** the request for a Variance to reduce the required 15-foot side yard setback (Section 5.030-B, Table Note 3), subject to conceptual plan 24.5 of the agenda packet. The Board has found the hardship to be that the original plat for the subject property does not conform with the current zoning standards. 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:

LT 8 BLK 19, CHEROKEE HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Shelton re-entered the meeting at 3:45 P.M.

23053—Back Land Use Planning – Carolyn Back

Action Requested:

Variance to reduce the required 15-foot side yard setback (Section 5.030-B, Table Note 3). **LOCATION:** 1003 North Quincy Avenue East **(CD 1)**

Ms. Shelton recused and left the meeting at 3:45 P.M.

Presentation:

Carolyn Back, Back Land Use Planning, 632 East 3rd Street, Tulsa, OK; stated the requested Variance is to go from a 15-foot side yard setback to a 5-foot side yard setback. There are several hardships for this property being located on a corner lot and having topographical challenges. The subject property is located in the Crutchfield Addition and it was platted in 1917 which predates the zoning ordinance. There was not enough land platted for a corner lot width to accommodate a single-family residence with the current setbacks. There is an 11-foot elevation drop from the rear to the front of the lot so in order to avoid moving a lot of dirt to make the lot more useable the proposed building had to be situated toward the rear of the lot, and it can fit in the rear of the lot with the Variance for side yard setback being approved today. There is also a shallow depth gas line that runs along North Quincy Avenue that prevents any curb cuts along Quincy Avenue thus requiring the proposed building being built near the rear of the lot.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-0-1 (Brown, Radney, Van De Wiele "aye"; no "nays"; Shelton "abstaining"; Bond absent) to **APPROVE** the request for a Variance to reduce the required 15-foot side yard setback (Section 5.030-B, Table Note 3), subject to conceptual plan 25.6 of the agenda packet. The Board finds the hardship to be that the platting for the subject property predates the City of Tulsa subdivision regulations and zoning ordinance, and also the significant topographic and utility challenges. 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:

LT 14 BLK 1, CRUTCHFIELD ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Shelton re-entered the meeting at 3:50 P.M.

23054—Back Land Use Planning – Carolyn Back

Action Requested:

Variance to reduce the required 15-foot side yard setback (Section 5.030-B, Table Note 3). **LOCATION:** 1412 East King Street North **(CD 1)**

Ms. Shelton recused and left the meeting at 3:50 P.M.

Presentation:

Carolyn Back, Back Land Use Planning, 632 East 3rd Street, Tulsa, OK; stated the Variance request is for the side yard setback from 15 feet to 5 feet. The subject property is located in Capital Hill Second Addition filed in 1916. The plat well predates the zoning ordinance. The hardship is that there is a tall retaining wall that was built around the lot preventing the ability to place the driveway curb cut anywhere off the public alley at the rear of the lot. The proposed single-family residence will not sit any closer to East King Street than the existing structure to the east.

Ms. Radney stated she is confused why the address is East King Street rather than Quincy if the alley running parallel to Quincy. Ms. Back thinks that when it was platted, and the address was assigned by the City of Tulsa.

Ms. Radney asked Ms. Back if the shaded area on the site plan was the front porch facing Quincy. Ms. Back stated the shaded area is where the driveway comes into the property from the public alley is the front of the house facing the public alley; the front porch faces east.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that he believes there is a hardship for the requested Variance, but he would certainly think there would be encouragement to front the house on to Quincy.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-0-1 (Brown, Radney, Van De Wiele "aye"; no "nays"; Shelton "abstaining"; Bond absent) to **APPROVE** the request for a Variance to reduce the required 15-foot side yard setback (Section 5.030-B, Table Note 3), subject to conceptual plan 26.6 of the agenda packet. The final floor plan for the proposed construction include a principal entry that fronts to North Quincy Avenue. The Board has found the hardship to be that the platting for the subject property predates the City of Tulsa subdivision regulations and zoning ordinance, therefore, it is not platted to accommodate the appropriate corner lot width as well as the significant topographical challenges as they relate to the retaining wall. 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:

LTS 23 24 BLK 7, CAPITOL HILL SECOND ADDN CORR, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Shelton re-entered the meeting at 4:02 P.M.

23055—Eller & Detrich – Nathalie Cornett

Action Requested:

Variance to allow a roof sign in the CBD District (Section 60.020-L). **LOCATION:**
525 South Main Street **(CD 9)**

Presentation:

Nathalie Cornett, 2727 East 21st Street, Tulsa, OK; stated this request is for a roof sign at the Park Center Building located at 6th and Main Streets in downtown Tulsa. The components individually do not cause the issue. Under the Code a wall sign, up to 240 square feet is permitted by right, because of the design of the building it has a very narrow parapet at the top that hinders placing any wall signage at that placement on the building. The solution to the problem is to basically extend the parapet with aluminum paneling and then install the sign on the aluminum paneling. The paneling itself will require its own building permit, and Ms. Cornett stated she has spoken with Danny Whiteman and he has confirmed that the paneling extending across the building is not considered part of the sign for calculation of the display surface area. The lettering itself is 233 square feet within the 240 square foot allowance, but when placing it on the panel it becomes a roof sign under the definition in the Zoning Code. The Variance is requested to allow a roof sign, currently roof signs are only allowed in a small district on the other side of downtown. There are similar signs in the area as well; Bank of America sign at 6th and Boulder, Chase sign at 7th and Boulder, and Arvest sign at 5th and Main. Due to how the building is constructed and the inability to install any meaningful wall signage it creates an unnecessary hardship.

Mr. Brown asked Ms. Cornett if the signage would be on the south side only. Ms. Cornett answered affirmatively stating the sign will be facing 6th Street and the building is 14 stories tall with windows from top to the bottom. On the ground floor there is an atrium and window shops for other commercial businesses. Ms. Cornett stated that bank signs are typical in the area, there are several banking buildings and all of them have their signs at the tops of the respective high-rise buildings.

Ms. Radney asked Ms. Cornett if the proposed sign would be lit. Ms. Cornett answered affirmatively stating that the sign will be back lit.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that he thinks this is typical signage at tops of buildings, i.e., the OneGas sign at the top of the building, the BOK signage on the exterior of the building, so he thinks the nature of downtown and the height of the building poses a hardship that he would be willing to grant the relief from.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Variance** to allow a roof sign in the CBD District (Section 60.020-L), subject to conceptual plan 27.18 of the agenda packet. The Board has found the hardship to be the structural limitations created by the size of the existing parapet for installing a traditional wall sign. 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:

LT 5 & S25 LT 6 BLK 148, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Mr. Van De Wiele wished everyone a safe and happy holiday. He thanked the Board members for their patience in having a two-day board meeting.

There being no further business, the meeting adjourned at 4:25 p.m.

Date approved: _____

Chair

