

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1266
Tuesday, February 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
Bond, Chair VanDeWiele, V. Chair Radney, Secretary Brown Shelton		Wilkerson Chapman Sparger	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on February 4, 2020, at 10:42 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Bond 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-february-9th>

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. Austin Bond, Chair
Mr. Stuart Van De Wiele, Vice Chair
Ms. Burlinda Radney, Secretary
Mr. Steve Brown, Board Member
Ms. Jessica Shelton, Board Member
Mr. Austin Chapman, Tulsa Planning Office
Mr. Dwayne Wilkerson, Tulsa Planning Office
Ms. Janet Sparger, Tulsa Planning Office

MINUTES

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the January 12, 2021 Board of Adjustment meeting No. 1264.

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the January 26, 2021 Board of Adjustment meeting No. 1265.

UNFINISHED BUSINESS

23071—Eller & Detrich – Lou Reynolds

Action Requested:

Variance of Section 80.020-B of the Tulsa Zoning Code to permit a portion of an existing covered patio to be located within the five-foot side street setback of a lawfully nonconforming lot in an RS-3 District. **LOCATION:** 3541 South Rockford Avenue East **(CD 9)**

Presentation:

Nathalie Cornett, 2727 East 21s Street, Suite 200, Tulsa, OK; stated this request is for an existing covered patio and support wall to be located within the 5-foot side street setback of a lawfully nonconforming lot. The application was on a previous agenda for a proposed swimming pool to be in the side yard; because this is a lawfully nonconforming lot it is very tight and there was additional survey work performed and when the survey was received it was discovered that there are other issues. It was learned from the survey that the fence is located in the right-of-way of Rockford and the fence has now been removed from the right-of-way and has been rebuilt on the property

line. The reconfiguration of the fence changed what the side yard looked like so the proposed pool and the relief for that are no longer before the Board. The survey also revealed that the covered patio and support wall are located in the 5-foot setback; the roof of the patio is in about 2'-6" and the wall is about 3'-6". The house was constructed in 2019 as a spec house and it is now occupied by an individual. It appears that at some point between permitting and construction this inadvertent error occurred where the structure was built into the setback; the plans did not show it designed that way. The Variance request is to allow the existing structure as built to be located in the setback. The hardship for this request is the narrowness of the lot and the error that occurred inadvertently during construction of the residence.

Mr. Van De Wiele asked Ms. Cornett if the wall and roof were built larger than what was shown on the plans. Ms. Cornett answered affirmatively. Ms. Cornett stated there are permitted obstructions in the setbacks, including walls and fences, but because this particular wall is integrated into the structure it does not qualify as a wall; i. e., the wall to the south for the entry area, that is a permitted obstruction. But because the 10-foot wall is supporting the deck it is not a permitted obstruction.

Ms. Shelton asked Ms. Cornett how the 5-foot setback was established. Ms. Cornett stated the Code provides that for nonconforming corner lots the street setback can be further reduced to five feet.

Mr. Brown asked Ms. Cornett what the color and the materials are for the patio roof. Ms. Cornett stated that roof is either dark blue or black and it is a metal roof with a stucco wall.

Ms. Shelton asked Ms. Cornett if the other houses sit as close to the right-of-way as the subject structure. Ms. Cornett answered affirmatively, stating that there is a lot of new construction in the area and the new houses are being built as close as they can be to the setback.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that he is not a big fan of the ask for forgiveness versus permission, but this seems to be an inadvertent error by a prior owner/developer and not the current homeowner. That plus the narrowness of the subject lot seems to be a hardship for relief, so he would support the request.

Ms. Radney stated she is undecided about the argument of the narrowness of the lot. The owner already has some relief in having the 5-foot setback and there are plenty of lots with these dimensions in Tulsa. There is nothing inherently unbuildable about the subject lot.

Mr. Van De Wiele agreed with Ms. Radney and stated that the Board has had issues with large buildings on smaller lots quite a bit. If it were the principal portion of the house, he would be more concerned about it, but it is mostly an open patio area.

Ms. Shelton stated she is curious why this did not show up on a mortgage survey. She does not think she has a problem with this based on context. Everybody in this neighborhood is pushing the limits of their lot so she does not think this will feel out of place if it is a foot over.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-1-0 (Bond, Brown, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of Section 80.020-B of the Tulsa Zoning Code to permit a portion of an existing covered patio to be located within the five-foot side street setback of a lawfully nonconforming lot in an RS-3 District, subject to plan 3.7 of the agenda packet and as constructed for the wall and roof in question. The Board finds the hardship to be the narrowness of the lot and the errors that occurred in the construction and permitting phase of the development which were not caused by the current property owner. 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:

W. 50 OF LT-16-BLK-4, PARRAMORE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23076—Elizabeth Koelle

Action Requested:

Special Exception to permit Low-Impact Medical Marijuana processing (Low-impact Manufacturing & Industry Use) in the CH District (Section 15.020, Table 15-2). **LOCATION:** 1213 & 1215 South Houston Avenue West **(CD 4)**

Presentation:

Elizabeth Koelle, 1215 South Houston Avenue, Tulsa, OK; stated she is the owner of Uptown Wellness Dispensary. She has a master's degree in Social Work, and she uses the social work background to operate the dispensary, and to be an advocate for medical marijuana patients. The patrons of her establishment are all medical patients and use cannabis for various ailments. Today's request is to relieve a hardship for the patients, because if she will be allowed to produce the product that the patients purchase it will lower their cost. The processing will be low impact and she would like to add a second business to the building to produce pre-rolled joints to be sold at her dispensary and other dispensaries across the state. This proposal will better utilize the building that she occupies. After the last meeting she received comments from a couple of the neighbors, and those concerns were about noise due to the 24/7 status and the smell of cannabis smoke outside the building. Some of the neighbors even had property value concerns. Ms. Koelle stated that she was surprised that a licensed medical business could devalue a neighborhood. In the last two years she has employed over a dozen people and if she is approved for the Special Exception request it will create more jobs locally. Ms. Koelle stated she attended the Riverview Neighborhood Association meeting, and the neighbors were able to voice their concerns, and she has agreed to provide an enclosed area off premises for the employees to breaks so they will not disturb the neighbors with any cannabis smoke. She has also agreed to limit access to the backyard during quiet after 11:00 P.M. She has also agreed to continue to attend neighborhood association meetings and to continue to rectify any concerns that may present themselves in the future. She believes that at this time she has rectified all the neighborhood concerns, at least the ones that are within her control.

Mr. Van De Wiele asked Ms. Koelle if she only intends to manufacture pre-rolled marijuana cigarettes and not to bake or manufacture edibles. Ms. Koelle answered affirmatively stating that her only intention in the business plan is to manufacture pre-rolled joints because she does not have the proper ventilation for anything beyond that.

Interested Parties:

Erica Daggett, 11 South 69th East Avenue, Tulsa, OK; stated she is proposing to be a tenant at the subject property. The open dialogue between her and the Riverview Neighborhood Association allowed her to elaborate on the day-to-day business plan and address any fears or misconceptions. Medical marijuana legalization and an increased access has enabled her and the business partners to conquer long-standing addictions to tobacco and opiates. In an attempt to fill the large building she applied for a Special Exception for the unused side of the subject building. Because the building

was a day care for many years there is a basic kitchen, a sink, and a stainless-steel table. At this time there are no cooking elements involved and no plans for the future. After assessing the space she realized it would not be a good location to install an industrial extraction equipment or kitchen. She has focused her planning on the convenient low impact product, pre-rolls. The process is simple and only requires a couple of tools to yield a large number of finished pre-rolls. Ms. Daggett described the pre-roll manufacturing process and stated that the finished product is sent to a certified testing lab to ensure quality and safety before it is packaged and sold at the dispensary. After hearing the neighbor's concerns at the neighborhood meeting, she is confident that she can maintain a low impact operation without off letting any odors or increased traffic in the neighborhood.

Ms. Radney stated that one of her concerns in the discussion at the last meeting was that in granting the Special Exception the Board would be granting a greater intensive use of the commercial site. There was a lot of discussion about the hours of operation for both businesses. Ms. Radney asked if there was anything that they would like to add to that today.

Elizabeth Koelle came forward and stated that all the concerns associated with the hours of operation are largely due to the noise in the back yard. She has implemented a policy about not smoking out in the back yard at all and after 11:00 P.M. no one will go into the back yard. This neighborhood is downtown whether or not her business exists there will be 24-hour people downtown. She has surveillance on the street and there are vigilant people there to call authorities if there is something happening. She has pledged to the neighborhood to not only watch their own back but to watch everyone's back. There is another 24-hour business four blocks away that serves not only medical patients but serves everyone adjacent to the same neighborhood in question, QuikTrip. She is absolutely sure that QuikTrip has more foot traffic than she does.

Mitchell Blessing, 1224 South Galveston Avenue, Tulsa, OK; stated he owns five houses in the neighborhood. The neighborhood meeting did go well, and he came to the conclusion after that meeting that everyone is willing to allow the pre-rolls. He asked the Board if they approve this request could the approval be restricted to pre-rolls even in the future. What the neighbors are concerned about in the future is when marijuana goes recreational. He does not know if smoking on the premises is legal and if the applicant's resolution of renting a parking space at the convenience store for a bus. This subject business is across the street from residential and it is one business away from residential unlike QuikTrip.

Ms. Radney asked Mr. Blessing if he had a position about the smoking on the premises. Mr. Blessing stated it is against state law and marijuana is like the wild, wild west of the country in Oklahoma. Tulsa Police cannot do anything about it and tell the public to contact OMMA. To contact OMMA it has to be done by e-mail and they send back a recommendation. It is not his job or the neighborhood association's job to police a working business. He cannot go to a liquor store and drink in the parking lot let alone inside the liquor store.

Leslie Tibbetts, 1310 South Jackson, #2, Tulsa, OK; stated she has lived in the area since 1988. When she was in her 20's she used to walk home from work, Tulsa Abstract and Title Company, which is about a mile from the subject dispensary. She was constantly asked by homeless people for money, cigarettes or solicited. There has been foot traffic in the neighborhood since 1988 and it has only worsened through the years. Before the dispensary was opened all of the riffraff came to the little park two blocks from the dispensary and buying illegal drugs. She is in favor of the dispensary's request because this would be a legal way to help people.

Susan McConnell, 13900 South Peoria Avenue, Unit 113, Bixby, OK; stated she is a long-time patient of the dispensary and she has been able to quit smoking and quit opiates and she thinks the business plan is able to provide less expensive products to patients.

Comments and Questions:

Ms. Radney stated she does not have an issue with the pedestrian foot traffic, her concern is the intensity of the operation and the hours of operation. She shares the concerns of the Riverview Neighborhood Association about the expansion of the legal use to include manufacturing in a residential setting. She is concerned about where the dispensary is and what times the transactions are occurring.

Mr. Van De Wiele agrees with Ms. Radney and was thinking about a five-year limitation on the Special Exception use. He would incorporate the restrictions and limitations that have been agreed to by the applicant in the summarized February 8th letter from the Riverview Neighborhood Association if there is a vote to approve this request, specifically that the dispensary is only a manufacturer of pre-rolled marijuana joints or cigarettes and that other processes such as baking and cooking of edibles is not included. Likewise, the restrictions on the outdoor use and the rear of the property. He would be inclined to include the restrictions about where employees are allowed to or prohibited from taking their breaks; he does share Mr. Blessing's concerns about whether or not those are compliant with OMMA regulations. Generally speaking he thinks this Special Exception is a very little and low impact on the overall use or commercial use of the subject property. The biggest issues the Board has heard today relate to the dispensary.

Ms. Shelton stated the dispensary has been approved and that seems to be the biggest impact on the neighborhood. The 24-hour operation happened after the dispensary went into operation by right. So what impact is a time limit going to do and is the Board's concern about the hours of operation?

Mr. Van De Wiele stated a time limit gives the Board another look at the operation in the future to determine whether it is a compatible use, a good neighbor, etc. Time limitations are a safety measure to determine if the operation is what the Board thought it was going to be.

Mr. Bond stated because someone feels that foot traffic may or may not be sketchy in a neighborhood, it is not the Board's job to make that determination. It is the Board's job to make sure neighborhoods stay strong and make sure neighborhoods become better. The subject neighborhood is a great neighborhood and always has been. To the extent that someone is concerned about the traffic in the area, he would say it is because at some point the City, the State and Federal funds decided to place a highway in the middle of what use to be one of the larger neighborhoods connecting to downtown. Mr. Bond stated he echoes the concerns of the neighbors and the question of density and the use. He thinks the proper answer is to place time limitations on the request and if things are not going well it can be readdressed.

Ms. Radney stated the Board of Adjustment is an extension of the Planning Commission, and the Board's job isn't to look at the liability of an existing business plan. The Board's job is to look at the viability of the geographic area. The neighborhood will be changing substantially over the coming years and she would not want to impede free exercise and quiet enjoyment of the purchase a person made. That is an investment in a neighborhood that she thinks is appreciated in many ways. But we are talking about an industry that is on the brink of substantial change. Inasmuch, as this building is shoehorned in on the basis of an old Code of planning framework, she thinks a short time would be advisable.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the Special Exception to permit Low-Impact Medical Marijuana processing (Low-impact Manufacturing & Industry Use) in the CH District (Section 15.020, Table 15-5). The approval is subject to the following conditions:

- The low impact processing use be limited to the manufacturing of pre-rolled cigarettes or joints only and there is not to be any baking or other manufacturing at the premises
- The low impact use be limited to the area in green shown page 4.12 of the agenda packet
- This Special Exception shall be for a period of three years from today's date, February 9, 2024 at which point the applicant may make application to the Board of Adjustment for reconsideration or extension of that time
- The conditions set forth in the February 8, 2021 from the Tulsa Riverview Neighborhood Association included in the agenda packet, specifically including the following limitations; the use be limited as noted previously to only the rolling of marijuana cigarettes or joints and no other processing is authorized by the Special Exception use
- No consumption or specifically including smoking outdoors at any point is allowed on the property, day, or night
- The rear of the property shall not be used for outdoor use including meetings, breaks, etc. between the hours of 11:00 P.M. and 8:00 A.M.
- The provisions in the Riverview letter where employees may take breaks, which may or may not include smoking, are restricted so they cannot be done outdoors but the location of any such consumption indoors or off premises is to be done in compliance with State and local law.

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:

S 10 OF W 97 .5 LT 3 & N 29 OF W 97.5 LT 4 BLK 15; S 43 OF W 97.5 LT 4 BLK 15, LINDSEY THIRD ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

23077—Raul Cisneros

Action Requested:

Special Exception to allow a duplex use in an RS-5 District (Section 5.020, Table 5-2 and Table 5-2.5); Variance of the 25-foot setback for a Special Exception use from R-zoned lots occupied by residential uses (Section 5.030-B, Table Note 4).

LOCATION: 1243 North Main Street **(CD 1)**

Presentation:

Alberto Perez, 11902 East 130th Street North, Owasso, OK; stated he would like to have a two-story duplex on the subject property.

Mr. Van De Wiele asked Mr. Perez if the conceptual site plan depicted the general feel and look and type of construction of the planned duplex. Mr. Perez answered affirmatively.

Mr. Van De Wiele asked Mr. Perez if the distance between the centerline of the street and the front portion of the garage is 52 feet is placing the proposed duplex a little farther back than the houses to the south? Mr. Perez answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Radney stated that in the packet there are several references to the Greenwood Community Heritage Sector Plan, and she wants it noted in the record that she does serve on the Citizen's Advisory Team for the Tulsa Development Authority that is currently in the process of revisiting and making modifications and updates to that plan.

Mr. Van De Wiele stated he likes the architectural feel of this proposal but it is obviously different from the Craftsman look and feel that is seen on Main Street, does that pose an issue either under the current plan or where the plan is headed. Ms. Radney stated that at this time the committee does not have any specified style guidelines. The staff

reports are correct and she see a vote by the Planning Commission that appears to have supported it. The missing middle housing throughout the district has been discussed but she acknowledges that has not thoroughly been vetted by community members about what it would look like and how it would be presented to the street. This is a fairly suburban model that doesn't exactly conform to the bungalow topography that existing duplexes in the neighborhood exhibit.

Board Action:

On **MOTION of SHELTON**, the Board voted 5-0-0 (Brown, Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the Special Exception to allow a duplex use in an RS-5 District (Section 5.020, Table 5-2 and Table 5-2.5); Variance of the 25-foot setback for a Special Exception use from R-zoned lots occupied by residential uses (Section 5.030-B, Table Note 4), subject to conceptual plans 5.18, 5.19, 5.20, 5.21, 5.22, 5.23, 5.24 and 5.25 of the agenda packet. The Board finds the hardship to be the small size of the lot and its location being completely surrounded by other R zoned properties. 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 14 BLK 1, HUDSON ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23078—Robison Consulting, LLC

Action Requested:

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

LOCATION: 13642 East 28th Place South (CD 6)

Presentation:

Eric Robison, 13428 South 124th East Avenue, Broken Arrow, OK; stated his client would like to have a side driveway that will give him access to his back yard. The driveway in question is located on South 137th East Avenue.

Mr. Van De Wiele asked Mr. Robison if the driveway had already been built. Mr. Robison answered affirmatively.

Mr. Van De Wiele asked staff how much driveway the applicant would be limited to. Mr. Chapman stated the applicant would be limited to 27 feet in the right-of-way and 30 feet on the lot. Mr. Chapman stated that taking in the aggregate the driveway is 38 feet and 1.5 inches between two curb cuts on both streets.

Mr. Van De Wiele asked Mr. Chapman if the walkway area counted as driveway. Mr. Chapman stated that it does not. Mr. Chapman stated that additionally in the rear the second curb cut pulls on to the lot in the back where there is a carport, but that is not an issue once it is out of the building setback; it should be 15 feet.

Mr. Van De Wiele asked Mr. Robison if he had heard from any of the neighbors. Mr. Robison stated that the homeowner has not contacted any neighbors, but he has not heard from any of them either. Mr. Robison stated that there are not any adjacent neighbors except for the house across the street.

Ms. Radney asked Mr. Robison about the structure that is built on the concrete pad. Mr. Robison stated the structure is a decorative stub wall about 18" tall and 18" wide that serves as a divider from the driveway to the walkway to the mailbox.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Brown, Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the Special Exception to increase the permitted driveway width (Section 55.090-F), subject to conceptual plan 6.8 of the agenda packet and as constructed and shown in the photographs in the agenda packet and submitted today. The structure shown on the east edge of the driveway is to be maintained as a physical separation of the walkway

and the driveway. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

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

23079—Coby Nirider

Action Requested:

Variance of the parking surface requirements to allow the continued use of an existing gravel driveway (Section 55.090-F). **LOCATION:** 15323 East 13th Street South (**CD 6**)

Presentation:

Coby Nirider, 7205 North 198th East Avenue, Owasso, OK; stated he is the Administrator for Brook Haven Hospital. The hospital has owned the property since 1992 and it has operated since that time as a group home serving individuals with traumatic brain injuries and their rehabilitation process. This home has the honor of bring the first licensed group home serving this population in the State of Oklahoma. The zoning requires all parking areas to be dustless all-weather surfaces, but the property has a 20 x 15 slab in front of what was the original garage of the house which was closed prior to the hospital's purchase. This Variance request will allow the group home to move forward with the licensing and process with the State. The group home has never received any complaints from anyone in the neighborhood about the driveway, about the property upkeep and certainly not about the patients that are served.

Mr. Van De Wiele asked staff why the Board of Adjustment needs to hear this Variance request if the driveway has been this way since the house was built and it is a grandfathered use. Mr. Chapman stated it is because the applicant needs something from the City Permit Center saying the property meets the Zoning Code. It has not been challenged that it is nonconforming, so the applicant is seeking the Variance. This request was reviewed by staff and City Legal and the way it is operating it is not meeting the definition of a community group home due to its scale, so it is being treated as a single family residential. It still came up through the zoning clearance permit that the gravel does not conform. In granting this, if the Board so chooses, with a nonconforming use if the house were destroyed and rebuilt the applicant would have to build a driveway.

Ms. Blank stated that in the 1990s hard surface paving would have been required for a single-family house, so she is not certain about the nonconforming aspect of the house.

Mr. Wilkerson stated that even the Code back in the 1970s required a hard surface for a driveway.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Brown, Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the Variance of the parking surface requirements to allow the continued use of an existing gravel driveway (Section 55.090-F), subject that the location of the driveway as shown in the photos in the agenda packet. The Board finds that the house in question has had a gravel drive since its construction nearly 30 years ago, and such use is quite common in the neighborhood. The Board has found that the same is a hardship. If the principal residence at any point in the future is replaced or reconstructed whether by reason casualty loss or otherwise the driveway is to be compliant with the Zoning Code. Also, in addition if there is an addition to the property consisting of more than 50% of the current floor area of the principal residence added to the existing structure the drive is to be compliant with the Zoning Code. 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 212 LT 8 BLK 3, RADIO HGTS, City of Tulsa, Tulsa County, State of Oklahoma

23080—Gary Holmes

Action Requested:

Variance to allow a detached accessory building to exceed 10 feet in height to the top of the top plate (Section 90.090-C). **LOCATION:** 10204 South Richmond Place East (**CD 8**)

Mr. Van De Wiele recused and left the meeting at 2:50 P.M.

Presentation:

Gary Holmes, 10204 South Richmond Place, Tulsa, OK; stated the property is unique because it is on a cul-de-sac. The property is rectangular in shape and that causes a hardship in that the front and back setbacks are close, so much so that a lot of the houses violates the setback conditions, including his house. Mr. Holmes stated he spoke with all his immediate neighbors.

Mr. Holmes had a poor connection and kept cutting in and out.

Mr. Bond asked Mr. Holmes why he wanted the building to exceed 10 feet in height? Mr. Holmes stated the purpose for the taller garage is so that he may have a taller van.

Mr. Brown asked Mr. Holmes if there were two doors to the garage, because the plan shows an eight-foot door. Mr. Holmes answered affirmatively stating that the eight-foot door was in the rear of the garage.

Ms. Radney asked Mr. Holmes if the other garage was to allow him to drive through the garage. Mr. Holmes answered affirmatively and stated that is so he can access his mower and lawn equipment easily.

Ms. Radney asked Mr. Holmes if the garage was for storage and not for human occupation. Mr. Holmes stated that he plans to finish the interior, but it will not have a living area.

Mr. Brown asked Mr. Holmes what the siding will be on the garage. Mr. Holmes stated the siding will match the existing structure.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-1-1 (Bond, Radney, Shelton, "aye"; Brown "nay"; Van De Wiele "abstained"; none absent) to **APPROVE** the Variance to allow a detached accessory building to exceed 10 feet in height to the top of the top plate (Section 90.090-C), subject to conceptual plans 8.7, 8.8, 8.9, 8.10 and 8.11 of the agenda packet. The exterior of the accessory building shall be constructed to match the exterior cladding on the existing house. The Board has found the hardship to be the unusual topographic limitations of the cul-de-sac 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 17 BLK 4, FOREST OAKS, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele re-entered the meeting at 3:01 P.M.

23081—Blue Beacon – Dana Morse

Action Requested:

Special Exception to permit a Commercial/ Vehicle Sales & Service/Commercial Vehicle Repair & Maintenance Use (Truck Wash Facility) in the CS District (Section 15.020, Table 15-2); Variance to allow drive-through facilities to be located on the street facing side of the property (Section 55.100-C2). **LOCATION:** 16505 East Admiral Place North **(CD 6)**

Presentation:

Dana Morse, 500 Graves Boulevard, Salina, KS; stated the subject property is the old QT located at 165th and Admiral and he is proposing to use it as a truck wash. When QT was in operation, they had truck services in the rear and facing 165th there was commercial store activities, so the zoning on the property was split. The back is zoned industrial and the front is zoned commercial. The front portion of the property does not allow for truck washing thus the Special Exception request for the truck wash to be allowed on the entire lot. His company has 112 truck washes across the United States and 6 in Canada, and that is the only service his company provides; washing over the road trucks and an occasional RV. What is being proposed is similar to other uses in the area. Mr. Morse had Mr. Chapman place pictures of the proposed business on the overhead screen and Mr. Morse explained the pictures.

Mr. Van De Wiele asked Mr. Morse if everything is done in the interior. Mr. Morse answered affirmatively.

Mr. Morse stated the way the truck wash is laid out is a horseshow pattern to maximize the amount of stacking on site. The major goal is to keep the trucks off the right-of-way and out of the street thus the Variance request. It is proposed to close the access points that go out onto 165th and only use Admiral as an access point; it is a much safer way to handle the traffic and helps maximize queuing on site.

Mr. Brown asked Mr. Morse about the typical cycle. Mr. Morse stated a typical cycle is fifteen minutes long per bay. Some of the truckers want just their truck washed, some want the tractor and trailer washed. If the trailer is a box trailer it will be washed out, but they do not wash tankers or cattle haulers because it is too hard on the discharge system.

Mr. Brown asked Mr. Morse if the trucks would exit onto Admiral Place. Mr. Morse answered affirmatively.

Ms. Radney asked if the building would have three bays. Mr. Morse answered affirmatively.

Ms. Radney asked Mr. Morse if there was an emergency egress onto 165th. Mr. Morse stated that it is not being required, no. Mr. Morse stated the Fire Department was fine with the layout.

Ms. Radney asked Mr. Morse about the maximum stacking capacity. Mr. Morse stated that it is at least 11, maybe 13.

Ms. Shelton asked Mr. Morse if the engineers have calculated the site line getting onto Admiral. Mr. Morse answered affirmatively stating he has been working with the Engineering Department because it is a wide cut, and they understand the truck business.

Ms. Shelton asked Mr. Morse if the property was two separate parcels. Mr. Morse stated there was a lot combination to get the lots combined.

Mr. Bond left the meeting at 3:10 P.M.

Mr. Van De Wiele asked Mr. Morse about the noise factor of the truck wash. Mr. Morse stated he does not know about the decibels, but the washing is inside, and the doors are closed through that process. There is no gantry system, there are six to seven people in the bay using high pressure wands to wash the truck. The noise would be the trucks idling while in line but that would not be any louder than the interstate traffic.

Mr. Van De Wiele asked Mr. Morse if they used dryers. Mr. Morse answered no, though there are vacuum pads at the entrance to the building.

Mr. Bond re-entered the meeting at 3:11 P.M.

Ms. Radney asked Mr. Morse to state his hardship for the Variance request. Mr. Morse stated if the Variance is not approved then the building will have to be flipped to the other side and reduce the queuing on the property which would cause the trucks to stack on Admiral. Ms. Radney asked Mr. Morse where the entry point would be if it were reversed. Mr. Morse stated the trucks would enter from Admiral, take a hard left and the building would set next to I-44 and the trucks would make a loop to come back out onto Admiral.

Mr. Van De Wiele asked Mr. Morse how late are trucks washed? Mr. Morse stated the business is 24/7.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 5-0-0 (Brown, Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the Special Exception to permit a Commercial/ Vehicle Sales & Service/Commercial Vehicle Repair & Maintenance Use (Truck Wash Facility) in the CS District (Section 15.020, Table 15-2); Variance to allow drive-through facilities to be located on the street facing side of the property (Section 55.100-C2), subject to conceptual plan 9.14 of the agenda packet and the example elevations supplied via e-mail today. The approval is limited to truck washing only and all truck washing will occur inside the bay doors. The property is to

meet all other requirements including the Code applicable landscape standards. The Board has found the hardship to be that the property is surrounded on three sides by major streets and the location of the building on the site as proposed will be the least injurious to the neighborhood. 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:

LTS 1 & 2 DIXIE HILL CENTER ADDN & W79 E591 S138 W/2 GOV LT 3 LESS S40 FOR ST SEC 2 19 14 .177AC, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 3:31 p.m.

Date approved: _____

Chair