

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1271
Tuesday, April 27, 2021, 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 April 22, 2020, at 9:05 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/COT5/boa-gotomeeting-in-council-chambers-april-27th>

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 April 13, 2021 Board of Adjustment meeting No. 1270.

Mr. Bond announced that the former Chair Stuart Van De Wiele is attending his last Board of Adjustment meeting today. Mr. Van De Wiele has served selflessly since 2009. It has been a pleasure for this Board to have served with him, and whether the members agree or disagree with Stuart, he has been a consummate professional, a consummate expert and he will be greatly, greatly missed. Mr. Bond presented Mr. Van De Wiele with a plaque of appreciation from the Board members.

Mr. Bond introduced Ms. Susan Miller, the Director of Development of the Tulsa Planning Office.

Ms. Miller came forward and stated that on behalf of the Planning Office Stuart will be missed and everyone will miss seeing him here. The only thing that makes this departure a little better is that Stuart will still be coming to the office with applications. Ms. Miller stated that Mr. Van De Wiele was the sole member that was on the Board when she and Mr. Dwayne Wilkerson started in their positions with the Planning Office. Ms. Miller stated that Stuart always strived to make the Board better, tried to find ways to make the City better, and she really appreciates that. Ms. Miller stated that Stuart will be missed, and she presented Mr. Van De Wiele with a plaque of appreciation.

Mr. Van De Wiele stated that he will be back, he has an application on file already so the Board will get to take out their frustrations in about six weeks. Stuart stated that he has enjoyed serving with all the Board members and the INCOG staff. Everyone has made this and his professional life easier. Mr. Van De Wiele stated his first meeting was in August 2009 and in doing the math he has heard 2,170 plus applications. He appreciates everything and extends his thank you to everyone.

Mr. Bond announced that the City has requested to have agenda item #3 moved to the front of the agenda due to the time constraints of the translator, Paulina Baeza.

NEW APPLICATIONS

23108—Oscar Salazar

Action Requested:

Special Exception to permit a carport in the street yard with modifications to its allowable dimensions (Section 90.090-C.1). LOCATION: 1440 South 75th East Avenue (CD 5)

Presentation:

Oscar Salazar, 1440 South 75th East Avenue, Tulsa, OK; stated he converted his existing garage into an additional room and built the carport to protect his cars. When he built the carport, he did not know that he needed a permit to do so, and he would like to be able to keep the carport.

Mr. Van De Wiele asked Mr. Salazar if there would be any changes made to the carport as shown in the photo on the overhead projector. Mr. Salazar answered no.

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 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a carport in the street yard with modifications to its allowable dimensions (Section 90.090-C.1), subject to "as built" and as shown on pages 3.5 and 3.9 of the agenda packet, and the conceptual plans on pages 3.10 and 3.11 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 9 & N30 LT 10 BLK 14, EASTMOOR PARK, City of Tulsa, Tulsa County, State of Oklahoma

UNFINISHED BUSINESS

23101—Tom Neal

Action Requested:

Variance to allow the aggregate floor area of detached accessory dwelling units / accessory buildings to exceed 500 square feet or 40% of the floor area of the principal residential structure (Sections 45.030-A & 45.031-D); Variance to allow more than one accessory dwelling unit on a single lot (Section 45.031-D.2).

LOCATION: 1111 East 5th Place South (CD 4)

Presentation:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated this case is a continuation of the previous meeting and he is hoping that there is a solution to making this project work properly within the zoning. He has been instructed to request a Variance to allow two accessory units on a residential multi-family lot. Obviously two ADUs cannot be one a residential single-family lot but because under the Code the lot is allowed up to three units, which is the house and the two studio units above the garage, the Board has the authority to approve this request.

Mr. Van De Wiele asked Mr. Neal if the two ADUs were in one structure in the rear. Mr. Neal answered affirmatively, stating there is a single staircase that is in the garage with the units being a mirror of each other.

Mr. Bond asked Mr. Neal if he had spoken to the neighbors or any interested parties since the last meeting. Mr. Neal stated that he has not, but his client is present today and the client is extremely engaged in the Pearl Neighborhood and in a leadership position.

Interested Parties:

John Dawson, 1111 East 5th Place, Tulsa, OK; stated he has not heard anything negative about his request. This request is the direction that the neighborhood would like to move forward, and it is how the neighborhood was 100 years ago next to downtown where people would rent a room or had multiple families on one lot. Mr. Dawson stated that his house may be the only one on his block that does not have a separate family living in the back yard.

Rebuttal:

Tom Neal came forward.

Ms. Shelton asked Mr. Neal to state his hardship for the second ADU. Mr. Neal stated that it is because it is a residential multi-family lot, he is not sure whether the hardship analysis is really the appropriate toggle to be used in this case. He thinks this is a gap in the Code when it was rewritten. He has been in conversation with several staff

members, and he thinks that at some point this type of request should be a Special Exception rather than a Variance with a hardship.

Ms. Radney stated that at the last meeting the Board asked Ms. Blank to receive more clarification regarding this request, and she is still of the opinion that the applicant does not need a Variance.

Ms. Blank stated the ADU Ordinance that was adopted by the Council states that no more than one accessory dwelling unit is allowed per lot. That is why the applicant needs a Variance because this does not comply. The ADU regulation allows ADUs in RS-2, RS-3, RS-4, RS-5 and RM Districts and RM-2 Districts. The Variance is needed because what is being asked for is not allowed under the Ordinance that was adopted by the Council.

Ms. Radney stated that what confuses her about this request is if the existing structure were not there the applicant could build three units by right.

Mr. Chapman stated that the Code separates use from building type therefore more than units could be allowed on a lot using the Use Table, but only a certain building type is allowed. In this instance, the applicant could have a four-unit apartment building but if that is done the applicant would need to provide parking for all four of the units in addition to the other building. With the ADU it is accessory to a detached single-family house and there is only one allowed. When an ADU is constructed additional parking and additional open space is not required. For an apartment building there is a required open space per unit and there is required open space and lot area for a single-family house, it's accessory when discussing ADU and there are no additional requirements for an ADU.

Mr. Van De Wiele stated that in Sub-section C, how this is different than other RM-2 property, it may go along with having a single-family building structure on an RM zoned piece of property is the uniqueness.

Comments and Questions:

Ms. Radney stated she is in support of the application. She appreciates what Mr. Chapman explained, the difference between use and building type but she thinks that this is worthy of reconsideration on the part of the City. This feels unnecessarily contorted for her. She is a realtor and what she knows is that these lots are abundant in the City, and the fact that that Board has not seen a case like this is actually surprising to her. What would be more likely is that, in many instances, the front duplex is what is no longer on the site and what would actually be in place would be a smaller accessory dwelling unit at the back of the lot.

Mr. Van De Wiele stated that he has seen a larger two-story house that has been split into an upstairs/downstairs living with a garage apartment in the rear, which is the more typical version of this. Mr. Van De Wiele stated he is in support of this request.

Board Action:

On **MOTION of RADNEY**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to allow the aggregate floor area of detached accessory dwelling units / accessory buildings to exceed 500 square feet or 40% of the floor area of the principal residential structure (Sections 45.030-A & 45.031-D); Variance to allow more than one accessory dwelling unit on a single lot (Section 45.031-D.2), subject to conceptual plans 2.13, 2.14, 2.15, 2.16 and 2.17 of the agenda packet. The Board has found the hardship to be the discrepancy between the current use and the Zoning Code, the property is zoned as multi-family use but currently used as single family. 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 9 BLK 7, CENTRAL PARK PLACE, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

23109—Brock Moore

Action Requested:

Special Exception to permit a small (up to 250-person capacity) Event Center / Private Lounge (Commercial / Indoor Assembly & Entertainment) use in an IM District (Section 15.020, Table 15-2); Variance to reduce the parking requirement

for an indoor assembly & entertainment use from 12 spaces to 0 spaces (Section 55.020, Table 55-1). **LOCATION:** 1920 East 6th Street South (**CD 4**)

Presentation:

The applicant was not present.

Mr. Bond moved this item to the end of the agenda to allow time for the applicant 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 3 BLK 4, ABDO'S ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23110—Image Builders – Ryan Neurohr

Action Requested:

Special Exception to permit a dynamic display sign in an RM-2 District containing a school use (Section 60.050-B.2.c); Special Exception to permit a dynamic display sign within 200 feet of residentially zoned lots (Section 60.100-F). **LOCATION:** 2601 East 5th Place South (**CD 4**)

Presentation:

Ryan Neurohr, 204 East 5th Avenue, Owasso, OK; stated he would like to install a dynamic message board at Kendal Whittier Elementary School. There is an existing sign structure, and it will be utilized, thus not increasing the overall size of the sign. This is for essentially changing the manual marquee sign for the LED marquee sign. The new sign will give the school district the ability to update the content from the IT Office at the TPS Headquarters. The sign will shut off at 9:00 P.M. and not turn back on until 7:00 A.M. There will be no animation, no videos and dwell time for each message will be eight seconds. Mr. Neurohr stated that he makes sure that the people operating the sign are informed of the regulations for the sign.

Mr. Brown asked Mr. Neurohr if the sign will be two sided. Mr. Neurohr answered affirmatively stating that it will be oriented for the east/west bound traffic.

Mr. Bond asked Mr. Neurohr if he had heard anything from any of the surrounding neighbors. Mr. Neurohr stated that he has not, and he has not seen any posted.

Mr. Neurohr stated the message will have an automatic dimming capability. There are 100 different levels of brightness, so the message board would get brighter on a sunny day but on a cloudy day, evening, or morning the sign would not be as bright. The sign is less bright than a typical porch light and the sign is made to be visible from an angle so people can see the message without being directly in front of the sign.+

Ms. Radney asked Mr. Neurohr if the current sign is lit in any way. Mr. Neurohr stated that it probably was in the past, but he does not think it has been maintained in recent years.

Ms. Radney asked Mr. Neurohr if the lettering for Kendal Whittier is back lit. Mr. Neurohr answered affirmatively stating that the logo portion of the header of the sign will continue to be lit. Ms. Radney asked Mr. Neurohr if that portion of the sign is lit and will be lit 24 hours a day. Mr. Neurohr stated the whole sign can be on one circuit and can be shut off at 9:00 P.M.

Interested Parties:

Jose Aramburn, 2604 East 5th Place, Tulsa, OK; this applicant was having difficulty being able to speak to the Board and the Board attempted several times to speak to him; the applicant sent messages by typing on the chat board.

Mr. Chapman read Mr. Aramburn's posted chat, Mr. Aramburn asks if the sign will be used at Christmas time and during the summer vacation. Mr. Neurohr stated he believes the school district does use their signs during Christmas time and summer break. During the summer, the school wants to make sure that everyone is aware of when school starts back in session and will post a message.

Comments and Questions:

Ms. Radney stated that she is concerned about the dwell time. It is not necessarily the brightness, but it could be the flickering of the sign because there are a lot of people that are sensitive to that lighting scenario. She would like to see the entire sign going dark at night also. She is familiar with the neighborhood and this sign is right across the street from homes and is concerned about the dwell time.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; "abstaining"; none absent) to **APPROVE** the request for a Special Exception to permit a dynamic display sign in an RM-2 District containing a school use (Section 60.050-B.2.c); Special Exception to permit a dynamic display sign within 200 feet of residentially zoned lots (Section 60.100-F), subject to conceptual plans 5.10, 5.11, 5.12, 5.13, and 5.14 of the agenda packet, using plan 5.11, 5.12 and 5.13 for the location of the sign, using plan 5.14 for the conceptual dimensions of the overall sign and the LED message board component thereof. The sign is to comply with all conditions in the handout provided by the applicant. The dwell time on the sign is to be no shorter than 15 seconds. All lighting and the LED display on the sign is to be automatically scheduled to turn off daily at 9:00 P.M. to 7:00 A.M. There is to be

no animation, no video displayed on the sign. The LED display is to have an automatic dimming feature, so the brightness is determined by natural ambient light conditions. 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:

ALLLTS1-8&17-24BLK3ALLLTS20-24&PRTLTS1- 5&17-19BLK4HIGHLANDS2ND&ALLLTS21-245758 &PRTLTS25-321545556BLK4&ALLLTS678&23-34 &47-58BLK5COLLEGEVIEWAMD&VACSTS&ALLEYST HEREOFBEGSECRLT17BLK3HIGHLAND2NDTHW855. 8N300E75N130NE109.94SWCLT32BLK4COLLEGEV IEWNE275.2,HIGHLANDS 2ND ADDN, COLLEGE VIEW ADDN AMD, City of Tulsa, Tulsa County, State of Oklahoma

23111—Jasha Lee

Action Requested:

Special Exception to allow a public, civic & institutional / daycare use in an RS-2 District (Section 5.020, Table 5.2). **LOCATION:** 2111 South Darlington Avenue East (CD 5)

Presentation:

Jasha Lee, 5402 East 25th Place, Tulsa, OK; stated she would like to open a day care in the church building. There is a building that is a church and then there is a building that is being used as a church nursery and fellowship hall. She would like to open a day care in the fellowship hall building Monday thru Friday.

Mr. Bond asked if the subject building had been used as a day care facility. Ms. Lee answered no.

Ms. Lee stated that the subject building has six different rooms and four bathrooms. There is one room with no bathroom, there are two rooms with an adjoining bathroom and the other two rooms have a separate bathroom. This building is perfect for receiving state licensing for DHS.

Mr. Brown asked Ms. Lee if there would be meals prepared on site. Ms. Lee answered affirmatively.

Mr. Bond asked Ms. Lee if she had contacted the surrounding neighbors. Ms. Lee answered affirmatively stating that she went door-to-door and the residents that answered their door were very supportive.

Ms. Shelton asked Ms. Lee if the proposed playground would be fenced in its entirety. Ms. Lee answered affirmatively stating that the area is currently fenced.

Ms. Lee stated that she currently has a licensed home day care and has had the day care for 24 years.

Mr. Van De Wiele asked Ms. Lee about her hours of operation for the day care. Ms. Lee stated that her plans are to open at 6:30 A.M. and close at 5:30 P.M., Monday through Friday. Mr. Van De Wiele asked about the maximum number of children that would be attending the day care. Ms. Lee stated that she estimates about 50 children.

Mr. Van De Wiele asked Ms. Lee if the State required a certain number of employees for a certain number of children. Ms. Lee answered affirmatively stating that it depends on the age of the children as to how many employees will be required.

Mr. Bond asked Ms. Lee if the building would be returned to Sunday school use on Sundays. Ms. Lee answered affirmatively.

Ms. Radney asked Ms. Lee about the size of the space she would be occupying. Ms. Lee deferred to her business partner and stated she is not sure about the square footage of the space, but she thinks the total building is 6,400 square feet and the day care would be less than half of that.

Ms. Lee stated that in the future she would like to be able to have 90 children in the day care.

Ms. Radney asked Ms. Lee if she had an age range that she would be targeting. Ms. Lee stated she plans to watch 1-year old children up to 12 years of age with more in the school age.

Interested Parties:

Special McKeefer, 5750 East 24th Street, Tulsa, OK; stated she is not sure about the square footage of the space, but she thinks the total building is 6,400 square feet and the day care would be less than half of that.

Comments and Questions:

Ms. Radney stated that there is certainly a need for after care from 6:00 P.M. to 6:00 A.M. so she does not know if the Board would want to limit the hours of operation. She knows the applicant has stated that she is not interested in operating at that time, but she thinks it is something the Board should contemplate.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a public, civic & institutional / daycare use in an RS-2 District (Section 5.020, Table 5.2), subject to conceptual plan 6.14 of the agenda packet. The hours of operation are to be 5:00 A.M. to 8:00 P.M. There is to a maximum of 90 children at the day care. There is a time limit of three years, April 27, 2024. The

use is to be limited to the existing structures as shown on 6.14. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LTS 6 7 8 9 10 BLK 2; PRT NE NW BEG 45S & 15E NWC NE NW TH S285 E430 N280 W165 N5 W265 POB SEC 15 19 13 2.79ACS, DARLINGTON HILLS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23112—Lindsey Barbour

Action Requested:

Special Exception to permit a single household / detached house in a CH District (Section 15.020-H, Table 15-2.5). **LOCATION:** 1117 South Braden Avenue East (CD 5)

Presentation:

Abraham Barbour, 1117 South Braden Avenue, Tulsa, OK; stated this request is satisfy the lending company requirements, he under contract to sell the house. He is being requested to convert the house back to a single-family use because it is under Industrial Light zoning. He was not aware of the zoning issue when he purchased the house.

Mr. Van De Wiele asked Mr. Barbour if the property had been used as a single-family residence as long as he knows of it. Mr. Barbour answered affirmatively.

Mr. Van De Wiele asked Mr. Barbour to confirm that this is not a tear down and rebuild and that this is just a lending issue. Mr. Barbour answered affirmatively.

Mr. Barbour stated that it was a rental house of his and now he is selling it.

Mr. Chapman stated that the CH zoning was placed on a single-family household and this is the first action that has been brought before the Board. Mr. Van De Wiele asked Mr. Chapman if he knew why the commercial zoning line engulfed this property. Mr. Chapman stated that he does not have a history on the property, but he believes it was due to a map amendment in the 1970 Code. Sometimes that happen because the intent was that the commercial on the north side of the property would purchase the subject property thus create more buffer between the neighborhood and obviously that did not happen.

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 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a single household / detached house in a CH District (Section 15.020-H, Table 15-2.5). The Board has found that the house has been there for many, many years and has been used in a single-family manner for a significant period of time. 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:

N 50 S 100.4 W/2 LT 2, CROWELL HGTS, City of Tulsa, Tulsa County, State of Oklahoma

23113—Kyle Gibson

Action Requested:

Variance to reduce the required 25-foot rear setback in an RS-1 District (Section 5.030, Table 5-3). **LOCATION:** 4618 South Florence Place East **(CD 9)**

Ms. Shelton recused and left the meeting at 2:27 P.M.

Presentation:

Kyle Gibson, 551 South Quaker Avenue, Tulsa, OK; stated the request to reduce the 25-foot rear setback to 10 feet and that will make it abuts the existing utility easement. The hardship for this request is that there is a flood way, and it takes the buildable area on the lot. The proposed addition would allow the property owner to work from home. The current design approach is a result of the floodway proximity to the west of the existing structure. The floodway dictates how this project was approached. The proposed work will be single story and match the existing roofing and slope. There will be windows facing the neighboring property. The rear yard setback does not apply to the side setback to the neighboring property on the north. Proposed construction would maintain density of the existing neighborhood and the new structure is at a minimum of 135 feet from any existing structures. Mr. Gibson stated the property owners to the north did contact him and they had concerns, he has been talking with them regarding the project.

Mr. Van De Wiele asked Mr. Gibson what the extension is going to be used for. Mr. Gibson stated that it is a garage extension. Mr. Van De Wiele asked Mr. Gibson why the garage was not proposed for a more southerly direction or the front of the current garage. Mr. Gibson stated that would reduce the existing driveway space and it would not allow for a turnaround point that the existing has.

Mr. Van De Wiele asked Mr. Gibson about building on the northwest end of the driveway. Mr. Gibson stated that if the extension went northwest following the existing ridge line there would still be a Variance needed of the rear yard setback, and it pushes the structure to the FEMA and Tulsa Regulatory Flood Plain. Most of the flooding issues are to the northwest of the existing house.

Mr. Bond asked Mr. Gibson if he had any discussions with the Collins household. Mr. Gibson stated there have been brief e-mail.

Interested Parties:

Marc & Irma Collins, 4623 South Florence Avenue, Tulsa, OK; stated he has concerns about the construction. He was shocked to receive a notice in the mail without any communication from the neighbor or the architect. He has lived in his house for 15 years and when he wanted to build a fence he spoke to the neighbors. His wife called INCOG, and she was told she may want to speak with the neighbor or the architect. He felt very odd starting the conversation because he felt as if he was being placed in the position of being the bad guy. Mr. Collins stated that when this first started he heard it was a garage space and now he hears it is a multi-purpose space. Mr. Collins stated that the applicant does not need to build west, he can build in the front and extend his driveway, and there are other options that could be available so he could stay within the City Code. The conditions are not unique for the area and the hardship is not real and is self-imposed by the applicant. The Variance is not minimal relief as shown and he does not want a zoning change approved. The request will impact the essential character of the neighborhood, and the request of the Code change from RS-1 to RM-2 will impact the neighborhood. This will substantially and permanently impair the use and development of his property. Mr. Collins stated that is not uncommon for a second house to be built and he believes that is where the pyramid development of the property starts.

Ms. Radney stated she does not see anything in this request regarding a change in zoning, and she asked Mr. Gibson if that was correct and if he was looking to add more density. Mr. Gibson stated they do not want a zoning change and they are not looking to add more density.

Ms. Radney asked Mr. Collins if he was aware of that. Mr. Collins stated he did not know anything about this project.

Irma Collins stated that RM-2 zoning states that there is a minimum of a two-foot setback, so that it would be a template setback for the subject house.

Mr. Van De Wiele stated there is no request to change the property to RM-2 zoning, RM-2 is multi-family like an apartment and that is not what is being asked in this request today. Ms. Collins stated she understands that.

Mr. Van De Wiele stated that cul-de-sac lots are sometimes a little tricky. In looking at 8.12 the neighbors to the south and north of the Collins on Florence have rectangular shaped properties with a five or ten-foot setback depending on which side. Mr. Van De

Wiele asked the Collins how they viewed that in comparison to what is being requested on the cul-de-sac lot since its north line is technically the rear line. Ms. Collins stated she views it as how the standards are written, the neighbor to the south does not have a 25-foot minimum. Mr. Van De Wiele stated that is correct and that is why he is here today asking for a Variance. Ms. Collins stated she understands the ten feet on the side of the house because do not spend time in the side yard except to get to the backyard, but predominately families spend their private time in the back yard, and she would prefer that the standards remain as they are because the set boundaries are good. Ms. Collins stated she enjoys her back yard and if the neighbor wants to build a structure closer, he could move away from the neighborhood. She did not move into the neighborhood for multi-family housing she moved into a neighborhood that has houses that are spaced with personal space that can be used. A permanent structure would mean that the neighbor is always there.

Mr. Van De Wiele stated that the Collins' could extend their house five feet from the common property line, and it is their side property line, and it happens to be the subject properties rear property line because of the shape of the lot. He understands the reference to the multi-family setback distance, but he is wondering how the Collins side yard line and the subject property rear yard line being the common property line he is wondering how close one could build.

Mr. Collins stated there are other restrictions that come into play, Joe Creek or Little Joe Creek, flows through the yards.

Mr. Bond left the meeting at 2:46 P.M.

Rebuttal:

Kyle Gibson came forward stated that the detached garage units, or ADUs or shed space have less restrictions, and what is being proposed the homeowner would prefer an attached garage to the house, but all the previously mentioned structures do not have to abide by the 25-foot set back rule.

Mr. Bond re-entered the meeting at 2:48 P.M.

Mr. Van De Wiele asked Mr. Gibson if he was proposing a single-story structure. Mr. Gibson answered affirmatively stating that it will strictly be a garage addition with no windows, an extension of the existing garage.

Mr. Bond asked Mr. Gibson if the extension would match the existing house. Mr. Gibson answered affirmatively stating there will be matching shingles, roof lines, brick, lap siding or whatever the existing materials are.

Ms. Radney asked Mr. Gibson if there would be any doors, exits or windows any where in the addition. Mr. Gibson stated there will be a garage door and window facing to the east, away from the northwest. Ms. Radney asked if there would be no windows on the north and no windows on the westerly edge. Mr. Gibson stated that would be correct.

Ms. Radney asked Mr. Gibson if the existing structure is a two-car garage. Mr. Gibson answered affirmatively.

Mr. Gibson stated the intent was focused away from the floodway and away from any neighboring houses. He tried to keep it private.

Ms. Radney asked Mr. Gibson if there was a more detailed drawing of the proposed addition. Mr. Gibson stated the drawing the Board has is all there is because this is the beginning of the process and he wanted to receive approval before moving forward with the design.

Comments and Questions:

Ms. Radney stated that this is confusing to her because she would have thought the west boundary line would have been the rear. Ms. Chapman stated a property owner can have two rear lot lines as defined by the Code, so the north and the west are both rear lot lines. On the lot to the north of the subject property there could be a detached accessory building built up to five feet of the northern property line. Currently the subject property owner essentially has five lot lines.

Mr. Van De Wiele asked Mr. Chapman if there is something in the Code that would mandate that the north property line is in fact a rear lot line or is that an elective situation? Mr. Chapman stated that in this case, the two lot lines are the most parallel to the front lot line which would dictate that those would be the rear lot line, the property lines on the east and on the south are the most perpendicular to the front. Mr. Chapman read the definition of a rear lot line from the Code book, stating that the rear lot line is the boundary of a lot that is most distant from the most nearly parallel to the front line. A side lot line is any boundary of a lot that is not a street lot line or rear lot line. In Chapter 90, it dictates that a property owner can have more than one rear lot line when referring to setbacks.

Ms. Radney stated she is sensitive to the Collins' position change is always disruptive to a neighborhood, but she is also sensitive to the fact that the applicant has a very oddly shaped lot. Per their point if the structure were not attached to the house the applicant would be able to build something of a similar size on the property and actually move it toward the north. The applicant also has a hardship in that a good portion of the subject property is in the floodway, which makes veritably unbuildable or at least very difficult to insure and mortgage. She is not particularly convinced by the argument that by building an attached structure closer to the northern boundary is changing the feeling of density in the neighborhood. This cul-de-sac, in the way it was laid out, is dense. But for the fact that the subject property has two rear lot lines the applicant would be able to build this by right, so she inclined to support the request. She also believes it is the least impactful

in terms of impinging on the neighbors in terms of creating more of a problem with runoff and the least impactful of impinging on the neighbor's privacy.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-1 (Bond, Brown, Radney, Van De Wiele "aye"; no "nays"; Shelton "abstaining"; none absent) to **APPROVE** the request for a Variance to reduce the required 25-foot rear setback in an RS-1 District (Section 5.030, Table 5-3). The proposed addition to be constructed be a rectilinear structure adjoining the existing garage structure and fit within the shaded area shown on page 8.6 of the agenda packet. The said structure is to be no more than one-story and have a fascia height, ridge height and plate height and roof pitch and construction materials of the same or complimentary to the principal structure. The Board has found that the cul-de-sac lot is of a unique shape and the property is also burdened by a rather large flood plain or floodway area, as well as related easement restrictions. There are to be no windows and no doors facing the property to the north. 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 4, LEIGH HAVEN ADDN SUB PRT TR 7 CLAYPOOL ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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

23109—Brock Moore

Action Requested:

Special Exception to permit a small (up to 250-person capacity) Event Center / Private Lounge (Commercial / Indoor Assembly & Entertainment) use in an IM District (Section 15.020, Table 15-2); Variance to reduce the parking requirement for an indoor assembly & entertainment use from 12 spaces to 0 spaces (Section 55.020, Table 55-1). **LOCATION:** 1920 East 6th Street South (**CD 4**)

Presentation:

The applicant was not present.

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 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Special Exception to permit a small (up to 250-person capacity) Event Center / Private Lounge (Commercial / Indoor Assembly & Entertainment) use in an IM District (Section 15.020, Table 15-2); Variance to reduce the parking requirement for an indoor assembly & entertainment use from 12 spaces to 0 spaces (Section 55.020, Table 55-1) to the May 25, 2021 Board of Adjustment meeting; for the following property:

LT 3 BLK 4, ABDO'S ADDN, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Ms. Radney would like to always encourage people who are regular citizens to participate even when the Board does not necessarily take action that aligns with their objections or their support of a request. That participation does inform the Board in terms of the way the Board should look at an application. She is very thankful for the participation of the Collins' today.

There being no further business, the meeting adjourned at 3:16 p.m.

Date approved: _____

Chair