BOARD OF ADJUSTMENT
CASE REPORT

Case Number: BOA-22849
STR: 215
CZM: 30
CD: 3
HEARING DATE: 02/11/2020 1:00 PM

APPLICANT: Robert Walenta

ACTION REQUESTED: Special Exception to permit moderate impact manufacturing in the IL district (Section 15.020); Variance of the required 75 foot building setback between IL and AG/R districts. (Section 15.030)

LOCATION: 2315 N YALE AV E; ZONED: RS-3, IL

PRESENT USE: Vacant TRACT SIZE: 227789.24 SQ FT

LEGAL DESCRIPTION: LT 5 BLK 2; LT 1 BLK 1; LT 2 BLK 1, S R LEWIS ADDN (The Special Exception is Limited to the West 550 feet of LT 5 BLK 2; LT 1 BLK 1; LT 2 BLK 1, S R LEWIS ADDN which is the IL zoning on the property)

RELEVANT PREVIOUS ACTIONS:
Subject Property: None
Surrounding Property: None

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of a "New Neighborhood "and an "Area of Growth ".

The New Neighborhood designation is intended for new communities developed on vacant land. These neighborhoods are comprised primarily of single- family homes on a range of lot sizes but can include townhouses and low-rise apartments or condominiums. These areas should be designed to meet high standards of internal and external connectivity and shall be paired with an existing or new Neighborhood or Town Center.

The purpose of Areas of Growth is to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the city where general agreement exists that development or redevelopment is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

ANALYSIS OF SURROUNDING AREA: The subject tract is Located South of the SE/c of E. Apache and North Yale Ave. The property is split zoned between IL on the Western Side of the Property and RS-3 on the Eastern. IL zoning was established by Ordinance Number 16132 approved 10.30.1984.
**STAFF COMMENTS:** The applicant is requesting a **Special Exception** to permit moderate impact manufacturing in the IL district (Section 15.020); **Variance** of the required 75 foot building setback between IL and AG/R districts. (Section 15.030)

<table>
<thead>
<tr>
<th>USE CATEGORY</th>
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<th>OM</th>
<th>OMH</th>
<th>OH</th>
<th>CS</th>
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<th>Supplemental Regulations</th>
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<td>Industrial</td>
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<td>Section 40.180</td>
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<td>Moderate-impact Manufacturing</td>
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<td>High-impact Manufacturing</td>
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Table 15-3: O, C and I District Lot and Building Regulations

<table>
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<tr>
<th>Regulations</th>
<th>OL</th>
<th>OM</th>
<th>OMH</th>
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<tr>
<td>Minimum Lot Area (sq. ft.)</td>
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<td>10,000</td>
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<td>Minimum Street Frontage (feet)</td>
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<td>50</td>
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<tr>
<td>Maximum Floor Area Ratio (FAR)</td>
<td>0.40</td>
<td>0.50</td>
<td>2.00</td>
<td>8.00</td>
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<td>0.75</td>
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<tr>
<td>Minimum Lot Area per Unit (sq. ft.)</td>
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<td>[2]</td>
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<tr>
<td>Min. Open Space per Unit (sq. ft.)</td>
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<td>[2]</td>
<td>[2]</td>
<td>[3]</td>
<td>[2]</td>
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<tr>
<th>Building Setbacks (feet)</th>
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<th>10</th>
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<tr>
<td>From AG, AG-R, or R district</td>
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<td>75[6]</td>
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<tr>
<td>From O district</td>
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<td>10</td>
<td>10</td>
<td>10</td>
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<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>75[6]</td>
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<td>Maximum Building Height (feet)</td>
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</tbody>
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15.030-B Table Notes

The following notes refer to the bracketed numbers (e.g., "[1]" in Table 15-3:

1. Same as required in RT district.
2. Same as required in RM-2 district.
3. Same as required in RM-3 district.
4. Garage doors must be set back at least 20 feet or 20 feet from the back of the sidewalk, whichever is greater.
5. When abutting RE-, RS- or RD-zoned lot, 2 feet of addl building setback required for each foot of building height above 15 feet.
6. Minimum building setback abutting freeway right-of-way that is zoned AG, AG-R, R, or O is 10 feet.

The applicant has proposed a greenhouse to encroach on the RS-3 zoning of the property. The Board does not have the authority to approve a Horticulture Nursery Use on the RS-3 Portion but the applicant has indicated their intention to apply to re-zone that property to AG.

**STATEMENT OF HARDSHIP:**

**Justification for Special Exception –**
We are requesting a special exception to conduct moderate-impact processing of medical marijuana on this site. The processing will be conducted in a fully enclosed room within the facility and no flammable material will be used. In accordance with IL zoning, the processing will have few if any adverse land use or environmental impact.

**Hardship for Variance –**
This site is zoned IL on the western 550’ and RS-3 on the eastern 406’. We intend to rezone the eastern portion to AG and given the unique situation of two zoning classifications on the same site, we are requesting a variance to remove the setback requirement within the site that pertains to the eastern and western portions.
SAMPLE MOTION:
Move to _______ (approve/deny) a **Special Exception** to permit moderate impact manufacturing in the IL district (Section 15.020)

- Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.
- Subject to the following conditions (including time limitation, if any):

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.

Move to _______ (approve/deny) a **Variance** of the required 75 foot building setback between IL and AG/R districts. (Section 15.030)

- Finding the hardship(s) to be ____________________________.
- Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.
- Subject to the following conditions ____________________________.

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.”
PUBLISHER'S AFFIDAVIT

PUBLICATION DATE(S)
November 6, 1984

NUMBER

LEGAL NOTICE

STATE OF OKLAHOMA                   ss.
COUNTY OF TULSA

I, of lawful age, being duly sworn, am a legal representative of The Tulsa Daily Business Journal & Legal Record of Tulsa, Oklahoma, a daily newspaper of general circulation in Tulsa County, Oklahoma, printed in the English Language and published in the City of Tulsa, in Tulsa County, State of Oklahoma, regularly, continuously and uninterruptedly published in the County for a period of more than 104 consecutive weeks prior to the first publication of the attached notice, and having paid circulation therein and with admission to the United States mails as second class mail matter and printed in Tulsa, Tulsa County, where delivered to the United States mail.

That said notice, a true copy of which is attached thereto, was published in the regular edition of said newspaper during the period and time of publication and not in a supplement, on the ABOVE LISTED DATE(S)

Phyllis Moore
(Representative Signature)

Subscribed and sworn to before me this 7th day of November, 1984.

Terry Young
Mayer
Subject Property

Facing South on N. Yale
Facing North on N. Yale