BOARD OF ADJUSTMENT
CASE REPORT

STR: 9321
CZM: 47
CD: 9
HEARING DATE: 02/23/2021 (Continued from 1/26/2021) 1:00 PM

APPLICANT: William Bell

ACTION REQUESTED: Special Exception to permit a 12-foot wall in the front street setback and a 10-foot wall around the perimeter (Sec. 45.080-A) and a Variance to allow a wall to be located inside the City of Tulsa right-of-way or planned right-of-way (Sec. 90.090-A)

LOCATION: 3514 S YALE AV E
ZONED: RS-3

PRESENT USE: Residential
TRACT SIZE: 44866.98 SQ FT

LEGAL DESCRIPTION: PRT SE NE BEG NEC N/2 S/2 SE NE TH W280 S195.11 E280 N195.11 POB LESS E50 THEREOF FOR RD SEC 21 19 13 1.03AC,

RELEVANT PREVIOUS ACTIONS:

Subject property:

BOA-17811; On 09.09.97 the Board approved a Special Exception to permit Residential Treatment Center in and RS-3 District.

BOA-16040; On 05.26.92 the Board upheld a determination of an Administrative Official that the property was being used for commercial purposes and approved a Special exception to permit an Home Occupation (office) in an RS-3 District.

BOA-15102; On 04.20.89 the Board approved a special Exception for a church use in an RS-3 District.

BOA-14373; On 01.22.87 the Board approved a Special Exception to permit an Educational Facility in an RS-3 District.

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

An Existing Neighborhood is intended to preserve and enhance Tulsa's existing single-family neighborhoods. Development activities in these areas should be limited to the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects, as permitted through clear and objective setback, height, and other development standards of the zoning code.

The Areas of Stability include approximately 75% of the city's total parcels. Existing residential neighborhoods, where change is expected to be minimal, make up a large proportion of the Areas of Stability. The ideal for the Areas of Stability is to identify and maintain the valued character of an area while accommodating the rehabilitation, improvement or replacement of existing homes, and small-
scale infill projects. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life.

**ANALYSIS OF SURROUNDING AREA:** The subject tract is located on the West side of Yale Ave. between E. 35th Ct. and E. 35th Pl. South. The property has never been platted and has no connections into the surrounding subdivisions.

**STAFF COMMENTS:** Applicant is requesting a **Special Exception** to permit a 12-foot wall in the front street setback and a 10-foot wall around the perimeter (Sec. 45.080-A) and a **Variance** to allow a wall to be located inside the City of Tulsa right-of-way or planned right-of-way (Sec. 90.090-A).

<table>
<thead>
<tr>
<th>Section 45.080</th>
<th>Fences and Walls</th>
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<tr>
<td>45.080-A</td>
<td>Fences and walls within required building setbacks may not exceed 8 feet in height, except that in required street setbacks fences and walls may not exceed 4 feet in height. However, in R zoned districts, fences up to 8 feet in height are permitted in side street setbacks of detached houses or duplexes located on corner lots and in street setbacks abutting the rear lot line of houses or duplexes located on double frontage lots. The board of adjustment is authorized to modify these fence and wall regulations in accordance with the special exception procedures of Section 79.120.</td>
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<tr>
<th>Section 90.090</th>
<th>Setbacks</th>
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<td>90.090-A Measurement</td>
<td>Required setbacks are measured from the applicable lot line, right-of-way, planned right-of-way or location referred to below. Building setbacks are measured to the nearest exterior building wall. Minimum setbacks that apply to other features (parking areas, fences, storage areas) are measured from the nearest point of the area or feature for which a setback is required. See 590.090-C for information on structures and building features that are allowed to occupy setback and yard areas in R zoning districts. Unless otherwise expressly stated, no part of any structure may be located within the street right-of-way, nor within the planned right-of-way of streets shown on the major street and highway plan, nor within 25 feet of the centerline of the right-of-way on streets not shown on the major street and highway plan. If a variance of the prohibition against location of a structure within the right of way or planned right of way is granted by the Board of Adjustment, no part of any structure may be located within the street right-of-way, nor within the planned right-of-way of streets shown on the major street and highway plan, nor within 25 feet of the centerline of the right-of-way on streets not shown on the major street and highway plan, unless a license has been granted by the city, in the case of the right-of-way, or a removal agreement has been entered into, in the case of the planned right-of-way.</td>
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The wall has been constructed without proper permits. In addition to the right-of-way, there are encroachments into easements that will have to be addressed with the City of Tulsa Engineering in addition to a license agreement or removal agreement.

**STATEMENT OF HARDSHIP:** The 12’ wall built into the ROW was built before knowledge of the ROW. Work has stopped but the wall is structurally complete.
SAMPLE MOTION:

Special Exception:

Move to ________ (approve/deny) a Special Exception to permit a 12-foot wall in the front street setback and a 10-foot wall around the perimeter (Sec. 45.080-A)

- 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.

Variance

Move to ________ (approve/deny) a Variance to allow a wall to be located inside the City of Tulsa right-of-way or planned right-of-way (Sec. 90.090-A)

- 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.”
Subject property

Facing South on Yale
Facing North on Yale

Northern Portion of Wall
Southern Portion of wall
Action Requested:
Special Exception for Use Unit 2 (residential treatment center) in a RS-3 zoned district. SECTION 404.E.1. SPECIAL EXCEPTION IN RESIDENTIAL DISTRICTS, REQUIREMENTS - Use Unit 9, located 3514 South Yale.

Presentation:
The applicant, Cathy Grant, represented by Steve Schuller, 320 South Boston, submitted a site plan (Exhibit H-1) and stated he is representing Christopher Youth Center, Inc. ("CYC"). Mr. Schuller informed the Board that CYC currently has three (3) residential centers in the City of Tulsa. The centers are located at 7th and Delaware, 15th Street & Broken Arrow Expressway and 35th Street between Harvard and Pittsburg Avenue. His client is moving out of the 7th and Delaware property due to the TU expansion. The center has been looking for a new site for the past two (2) to three (3) years. Mr. Schuller reminded the Board that they had granted the 35th Street CYC a special exception for a limited term of two (2) years in 1989 over considerable protest from the neighbors who were fearful of what might be located on the property and the operation of CYC. In 1991, when CYC returned to the Board for renewal of the special exception, all but one neighbor supported CYC and the minutes reflect petitions and letters of support that were submitted to the Board. He indicated that the neighbors found that the residents of CYC were well behaved, well supervised and the facility was well maintained. CYC is an experienced, proven organization, which has been in operation for 17 years. CYC provides homes for boys with emotional problems, which are victims of crimes and life’s injustices. Mr. Schuller described the boys as troubled boys, but not boys who cause trouble. He explained that there are ten (10) boys proposed for the subject home, ranging in age seven (7) to seventeen (17). The boys are referred to CYC from all over the State of Oklahoma by the State Department of Humans Services ("DHS"), agencies and by community health centers around the State. The boys are assessed by the referring agencies as eligible for residential care. CYC is licensed by the DHS as a child placing agency and is accredited by the International Joint Commission on Accreditation on health care organizations, which is the same organization that accredits hospitals and home care facilities. He stated that the residents of CYC are supervised 24 hours a day and there are three (3) counselors present in each facility from 6:00 a.m. to 11:00 p.m. He explained that at night there is one counselor on duty from 11:00 p.m. to 6:00 a.m. and the counselor is awake at all times. There are trained therapists present from 9:00 a.m. to 6:00 p.m. and on call for the weekends. He indicated that the therapists have Masters Degrees in social work with the clinical specialty. The residents attend Tulsa Public Schools ("TPS"), but not necessarily in the neighborhood where each center is located. Mr. Schuller indicated that TPS has determined that the residents should attend schools all over the City. Most attend schools that offer special classes for students with emotional problems and learning disabilities. The residents of CYC belong to Boy Scout Troops, Salvation Army Boys Club and attend the same activities as other youngsters of the same age. Christopher Youth Center is not affiliated with
any particular religious organization or group, however the residents are permitted to attend religious services of their choice. Mr. Schuller stated that CYC does not discriminate on the basis of race, color, national origin or handicap. He commented that abuse does not discriminate either and the residents of CYC have been abused at home. The average length of stay at CYC is one (1) year and when the resident leaves he returns to his own family, if the family has been rehabilitated, or with a relative, adopted family and foster family. Mr. Schuller reassured the Board that none of the residents have been adjudicated delinquent through the court system. The residents are taught respect and responsibility, self control, neatness and manners through a system of rewards for positive behavior and progress. The appearance of each of the existing facilities is the testimony of the manner in which the CYC are well maintained and good neighbors. Mr. Schuller submitted photographs of the subject property (Exhibit H-2) and stated that the subject property is screened from Yale Avenue by a thick hedge. He reminded the Board of a previous application that was denied for CYC and the Board’s concerns with the application. He explained that CYC has gone to great lengths to locate property that addresses all of the Board’s concerns that were voiced during the previous denied case. The subject property is more than one (1) full acre; the house has 6,000 SF; the subject property is located on an arterial street; the subject property only has access to Yale Avenue with a very large circular driveway and accessory driveways. There is no access from the subject property to the streets in the surrounding residential neighborhood. He indicated that the driveway has more than sufficient parking areas, including a four car garage on the side of the subject property. Mr. Schuller detailed the previous Board actions dealing with the subject property. He concluded that the subject property and the proposed use is in harmony with the spirit and intent of the Zoning Code. The subject property is ideally suited for this use because of its size, location and lack of access to the surrounding residential neighborhood. He stated that the proposed use will not be injurious to the neighborhood nor otherwise detrimental to the public welfare. Mr. Schuller requested the Board to grant the special exception requested by CYC.

Comments and Questions:
Ms. Turnbo asked the applicant if there will be regular hours for visitors or family to come to CYC? Mr. Clay Langley, Christopher Youth Center, 4012 East 35th Street, stated that there are opportunities for parents to visit and it is primarily on weekends. He explained that during the week there are some afternoon family therapy sessions. He stated that of the ten (10) residents that services are provided to, there may be an average of one (1) or two (2) families per week that visit on the subject property.
Mr. Dunham asked the applicant if CYC planned to maintain the facility on 35th Street if this facility is approved? Mr. Langley stated that the facility will be maintained as it is currently operating. He explained that there will be a CYC on 15th Street, 35th Street, however it is the property on 7th and Delaware that CYC will be vacating due to the TU Expansion. The current proposal is an established program and CYC is not proposing a new start up program nor expanding.

In response to Mr. Dunham, Mr. Langley explained that the CYC home on 35th Street is approximately a half mile away. The home is 5,000 SF, which sets on 2 acres of land. He indicated that the 35th Street CYC home is surrounded by 23 single-family dwellings. Mr. Langley concluded that there are ten (10) boys in each of the three houses.

Mr. White announced and recognized a letter of protest submitted (Exhibit H-3).

Protestants: The following protesters expressed the same concerns:
Marcus & Peggy Wright, 3531 South Winston; Margaret Parker, 3350 South Allegheny; David Schultz, 3564 South Winston, submitted a petition (Exhibit H-4);
Becky McCracken, 4828 East 35th Street; Gregory Falconetti, 3570 South Winston;
Susan Little, 3360 South Allegheny Avenue; Marjorie Honeyman, 4828 East 35th Court.

The following concerns were expressed by the above protestants:
The subject property is not accessible by north bound traffic on Yale Avenue and traffic has to go through the neighborhood to reach the property; security for the neighborhood and children; privacy fences do not screen adequately because of the topography of the property; property value decreasing; CYC is for profit organization; two facilities in the neighborhood; zoned RS and not business; vandalism; lack of supervision; noise level; pool on subject property too close to the fence; talked with residences at other CYC locations and found that there are problems with supervision; runaways; residents scaling the fence; staff is not required to have a college degree and often staff does not have a degree; concerns with CYC residents, with developmental disabilities, living on a street as busy as Yale Avenue; non-locked down facility; aggressive behavior; CYC residents on Ritalin, Thorazine, high blood pressure medication, anti-psychotic drugs; added traffic to the subject area.

Applicant’s Rebuttal:
Mr. Schuller stated that in most of the incidences that the protesters mention, the CYC residents were not tied to the incident. He commented that there are not many residential properties in Tulsa that will meet this Board’s concerns where facilities of this type should be located. The Board was very clear with the previous case where facilities of this type should be located. He stated that the Board was very clear on what the applicant was to look for when locating this kind of facility. He commented
his client has found the kind of facility that the Board has indicated his client should find. Mr. Schuller stated that if people go through the interior streets because of difficulties with medians, that is just something that has to be contended with. He reminded the Board that every time the Board has approved Use Unit 2 use for the subject property, it has been because the type of use has been specifically found not to be detrimental to the neighborhood. The CYC residents are supervised and are taken out of homes because the homes they are in have problems. The CYC residents have been abused by their families and are returned after the family has undergone sufficient counseling to warrant the CYC residents return. Mr. Schuller clarified that he did not indicate that the staff members all have Masters Degrees, but that the therapists have Masters Degrees. He explained that the facility is needed for the community and is well suited to the subject property. He stated that the subject property is the type of property that the Board has told his client to look for and the special exception should be granted.

Comments and Questions:

Mr. Bolzle asked the applicant how many automobile or bus trips will be made at the subject property on any given day? Clay Langley stated that there will be three (3) guidance counselors, a therapist and periodic family therapy sessions. He indicated that there is an average of five (5) to six (6) vehicles coming and going from the subject property. He explained that the residents ride school buses to school and there is an average of four (4) school buses.

In response to Mr. Bolzle, Mr. Langley stated that the school bus comes specifically to the subject property to pick up the boys for school. He further stated that the school buses will use the circular drive that is already in existence.

Mr. Bolzle asked the applicant to explain the nature of the outdoor activities, hours of operation and the level of supervision for outdoor activities? Mr. Langley stated that any time the boys are in the home and awake, there are three (3) guidance counselors on duty for ten (10) boys. He explained that currently the average age of the guidance counselors is 35 years of age and the minimum hiring age is 28 years of age. The outdoor activities consist of swimming, basketball, football, etc. He stated that when the residents are outside they are expected to be under supervision, but that doesn’t always mean the counselor is within an arms reach. He explained that supervision could mean that the residents can be seen through a window or are immediately available. The activities frequently take place in City Parks, Salvation Army Boys Club, local gymnasiums, Big Splash, skating rinks, bowling alleys, etc. CYC tries to move six (6) of the boys off the property every afternoon after school for recreational activities. The remaining residents will have therapeutic activities. Mr. Langley stated that during the weekends the CYC residents clean the house in the a.m. and in the afternoon the houses are empty and the residents are engaged in
recreational activities. The routine bedtime for the residents is 8:00 p.m. with an overnight staff member for supervision.

Mr. Bolzle asked the applicant if there would be a limit on the outdoor activities and the times it is allowed? He stated that the residents are always in before dark.

Mr. Bolzle asked the applicant to explain the controls as to how the CYC residents enter and leave the facility? Mr. Langley indicated that the limitations are provided by staff supervision and there are instances where the residents run away. Mr. Langley stated that the policy indicates that they are to be followed by a staff member, but not chased. He explained that they do not want to entice a resident to run out into a busy street. He stated that usually the resident realizes that they are not being chased and stops to talk with the counselor.

Mr. Bolzle asked the applicant if the residents can leave through any of the exits from the backyard at anytime? Mr. Langley stated that on the subject property there is one gate, which can be locked and he will insure it will be locked. The only entrance or exit is out the front door.

Mr. Bolzle asked the applicant if there is any reason why CYC would not want to control the residents with only one exit? He answered negatively.

In response to Mr. Bolzle, Mr. Langley stated that each facility operates independently of the other CYC facilities. Occasionally a resident may be moved to a different CYC facility due to peer pressure.

In response to Mr. White, Mr. Langley informed the Board that CYC has been at the 7th Street location for 17 years, 15th Street location 11 years and the 35th Street location for 8 years. He commented that it speaks highly of the organization that there are neighbors less than four (4) blocks away that did not know they were there. He explained that there are no signs and the homes are for the residents to live in until they are able to return to their families. He stated that CYC runs a very low profile and would like to keep the children's privacy protected. He informed the Board that if the facilities were a danger to the neighborhoods, you would hear about it in the newspapers. He commented that CYC is not in the news and they are not a detriment to the neighborhood.

Ms. Turnbo asked the applicant if the older boys are allowed to go to the Junior High and High School evening activities? Mr. Langley stated that the boys living at CYC must be under their supervision at all times, unless they are under the direct supervision of TPS. The residents do attend dances and games, but they are supervised by a staff member who volunteers during their off time.
Case No. 17811 (continued)

Mr. Bolzle stated that the only real concern is the proximity to the 35th Street facility already in existence. He commented that the concerns of the neighbors are valid and their concerns would be shared by any neighborhood where this facility is proposed. The Code provides and the Federal Government encourages the location of these types of facilities in residential neighborhoods, when they can be made appropriate. He concluded that this is an appropriate location except for the proximity of the existing CYC facility on 35th Street.

Ms. Turnbo commented that the location has met what the Board has said in past cases. She explained that she is concerned that this will be the second facility in the neighborhood. She stated that the Code allows a minimum 1/4 mile between the two facilities and there is approximately 1/2 mile between the proposed location and the 35th Street facility.

Mr. Bolzle stated he is compelled to make a statement because of Mr. Schuller’s statements. Mr. Bolzle informed the applicant that the Board did not direct CYC to seek a location that met any criteria. The Board responded to an application that was being heard and cited concerns that the Board had. The Board’s concerns cited during a hearing of an application should never be construed as a direction or directive to an applicant to seek a location that meets those concerns with the feeling that the Board would automatically approve the application. Each individual case has its own merits and the Board has to look at each case individually. Mr. Bolzle stated he would counter Mr. Schuller’s suggestion that the Board some how encouraged him to seek a location that met criteria that the Board had previously set out. That was not the intent and not the case.

Board Action:
On MOTION of BOLZLE, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to APPROVE a Special Exception for Use Unit 2 (residential treatment center) in a RS-3 zoned district.

SECTION 404.E.1. SPECIAL EXCEPTION IN RESIDENTIAL DISTRICTS, REQUIREMENTS - Use Unit 9, per plan submitted; subject to the property be so secured so there is a central access and control point for activities in the house and in the backyard, so the staff can be aware of the comings and goings of the residents, and so that there not be free access from any point in the house or the backyard except for the requirements of the fire code and other codes; that there be no outdoor activities after dark; subject to the installation of an 8’ fence along the northwest and south boundaries of the property with the pickets on the inside of the fence; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:
Case No. 17811 (continued)

Prt SE, NE, Beg. NE/c, N/2, S/2, SE, NE, then W 280’, S 195.11’, E 280’, N
195.11’, POB less E 50’, Sec. 21, T-19-N, R-13-E, City of Tulsa, Tulsa County,
Oklahoma.

Case No. 17812

Action Requested:
Variance of the required 30’ of frontage on a public street or dedicated right-of-way in
an RS-1 district to permit a lot split. SECTION 206. STREET FRONTAGE REQUIRED
- Use Unit 6 and a Variance of average lot width requirement. SECTION 403. BULK
AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 6,
located 4636 South Evanston.

Presentation:
The applicant, James McLean, 1402 West James, Enid, 73101, representing his
mother who is the subject property owner, submitted a site plan (Exhibit I-1) and
stated that his mother has owned the subject property for 38 years. He explained
that the subject parcel is oversized for an RS-1 district. It is nearly 127% of the average
size lot in the neighborhood. He stated the variance will allow his mother to market
the additional lot space. Mr. McLean indicated that within three (3) or four (4) blocks
there are three examples where the lots were split in a similar fashion.

Comments and Questions:
Mr. White asked the applicant if the similar lot splits are in the same neighborhood?
He indicated that the splits have been at 4900 block of South Columbia and 2800
block of 49th Street.

Mr. McLean stated that the subject lot has an average width of only 99’ before the lot
split.

In response to Mr. Bolzle, Mr. Stump stated that if the applicant had given 30’ of
frontage and had a panhandle neither lot would meet the minimum lot width. If the
applicant did not give the panhandle the rear lot would have substandard lot width.

Mr. White asked the applicant to state his hardship in order to grant a variance. Mr.
McLean stated that without the variance there would be no way to access the
proposed lot.

Protestants:
Steven Allen, 4641 South Delaware, stated he did not see how the lot could be split
and provide an attractive lot for development. He expressed concerns that the lot split
would affect the property values in a negative fashion. Mr. Allen concluded that due to
the closeness of his lot he is opposed to this application.

09:09:97:734(24)
Case No. 16036 (continued)

that would warrant the granting of the variance request;
and finding the placement of the advertising sign closer
to the residential area would be injurious to the
neighborhood and violate the spirit and intent of the
Code; on the following described property:

Lot 1, Block 1, Fairfield Center Addition, City of
Tulsa, Tulsa County, Oklahoma.

Action Requested:

Appeal of the Administrative Official that the property
is being used for commercial uses - Section 401.
PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS -
Use Unit 6

or in the alternative

Special exception to permit an office as a home
occupation - Section 402.B.6. Home Occupations - Use
Unit 11, located 3514 South Yale Avenue.

Presentation:
The applicant, G. D. Jonson, 3514 South Yale, Tulsa,
Oklahoma, submitted photographs (Exhibit B-2), and stated
that a complaint has been filed that he is running a
commercial business from his home. He explained that he
is a petroleum writer and has set aside approximately 500
sq ft of office space in his home, with the remainder of
the structure being a dwelling. Mr. Jonson stated he was
not aware that a typist could not come to his home and
type. He stated that he has done this for years, but has
not had a typist since the last Board of Adjustment
hearing. The applicant requested permission to hire a
personal assistant to do research and typing. He
informed that the property in question has been
previously occupied by a church and a pre-school, but is
now his home. Mr. Jonson stated that he has a lot of
friends that visit the site, and it is not uncommon to
have three or four cars parked in the driveway at any
given time. The applicant stated that his home
occupation will not have a sign, and is in compliance
with the Code except for the typist. Letters of support
(Exhibit B-2) were submitted.

Comments and Questions:

Mr. Doverspike asked the applicant if customers or
vendors visit the property on a regular basis, and he
replied that he is a writer; and his clients do not visit
the residence.
Case No. 16040 (continued)

In response to Mr. Doverspike, the applicant stated that the entrances to his property are on Yale Avenue, and the back yard is used primarily for residential purposes.

Mr. Jackere advised that the Board can vary provisions of the Code pertaining to a home occupation permitted by right; however, there must be something unique about the property that would cause an employee to be needed. He informed that the request for an employee is not properly before the Board at this time. Mr. Jackere noted that an author is permitted to work out of his home by right, but an employee is not permitted by right in any home occupation.

Protestants:

Marcus Wright, 3531 South Winston, Tulsa, Oklahoma, stated that he has lived to the rear of the subject property for approximately two years, and on one occasion Mr. Stauss stated that he and Mr. Jonson were partners and used the home for office space. He questioned whether or not the property was occupied as a dwelling at the time of his conversation with Mr. Stauss. Mr. Wright stated that his wife does not work away from home and has noted numerous vehicles visiting the home during the day. He submitted a petition (Exhibit B-4) signed by homeowners in the immediate area.

Interested Parties:

Bill Stauss, 5520 South Urbana, Tulsa, Oklahoma, stated that he is a petroleum engineering consultant and a friend of Mr. Jonson. He stated that he visits Mr. Jonson's home on a regular basis to use his library for research purposes. He stated that there is not a business being operated at this location.

Mr. Jackere asked Mr. Stauss how long he has been using the library at Mr. Jonson's home, and he replied that he began to use the library in September 1991.

In response to Mr. Jackere, Mr. Stauss stated that the library is very large, covering two walls from the ceiling to the floor.

Mr. Jackere asked Mr. Stauss if he uses the library daily or weekly, and he replied that he visits the property in question on a weekly basis, and other friends also use the library.
Case No. 16040 (continued)

Mike McGraw, 4564 South Harvard, Tulsa, Oklahoma, stated that he sold Mr. Jonson the property to be used as his dwelling.

Margaret Connor, 4827 East 35th Court, Tulsa, Oklahoma, stated that she lives in the neighborhood and the applicant lives on the property and is an asset to the area.

Wesley McDorman, 1244 North Darlington, Tulsa, Oklahoma, a friend of the applicant, stated that Mr. Jonson purchased the property for his dwelling and there is not a business being conducted on the premises. He informed that Mr. Jonson has access to the top floor of his office building if he ever needs office space.

Candy Parnell, Code Enforcement, stated that she received a complaint regarding the subject property in February and, after checking the dwelling, has no reason to believe the applicant does not live at this location. However, upon entry to the house, she stated that the two front rooms had the appearance of an office, with desks, chairs and bookcases. She stated that the applicant was not at home, and the two women that spoke with her were very evasive when questioned about the type of home occupation being conducted on the premises. She added that there were several vehicles on the property that were not registered in Mr. Jonson's name. Ms. Parnell stated that she later contacted the applicant by mail, and he informed her that he is an author. She stated that the fact that there were two women in the home that obviously did not live there, and automobiles parked on the property that did not belong to the applicant, caused her to believe that some type of business was being conducted at this location.

Additional Comments:

Mr. Doverspike stated that there has been sufficient evidence presented that an enterprise of some nature is going on at this location, although it may not be improper for the area. He stated that the part-time employee seems to be the issue, since an author is permitted to have a home occupation by right.

Mr. Gardner advised that a consulting business, with clients visiting the home, would be required to have a special exception.
Case No. 16040 (continued)

Board Action:
On MOTION of CHAPPELLE, the Board voted 4-0-0 (Bolzle, Chappelle, Doverspike, T. White, "aye" no "nays"; no "abstentions"; S. White, "absent") to UPHOLD the decision of the Administrative Official that the property is being used for commercial uses - Section 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS - Use Unit 6; to APPROVE a Special Exception to permit an office (consulting business) as a home occupation - Section 402.B.6. Home Occupations - Use Unit 11; to CONTINUE a portion of the application to permit the applicant to file for a variance to permit an employee who does not live in the home; subject to the home occupation being limited to editing, publication, and research; and subject to the Home Occupation Guidelines; finding that there are mixed zoning classifications along Yale, and approval of the request will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:


NEW APPLICATIONS

Case No. 16043

Action Requested:
Special Exception to amend a condition of approval to a previously approved variance, located 3901 South Harvard Avenue.

Presentation:
The applicant, Ted Wilson, 4038 East 27th Street, Tulsa, Oklahoma, stated that he previously received approval to have a greenhouse at the current location until May 1, 1992, at which time it was to be moved to the rear of the property. He explained that he has been making improvements to the garden center and has had numerous expenses since the previous approval. Mr. Wilson requested an extension of the time limitation previously imposed by the Board.

Comments and Questions:
Mr. Chappelle inquired as to the amount of time need to move the greenhouse, and Mr. Wilson requested a two-year extension.
Case No. 15092 (continued)

Protestants: None.

Board Action:

On MOTION of BRADLEY, the Board voted 3-0-0 (Bradley, Chappelle, Smith, "aye"; no "nays"; no "abstentions"; Quarles, White, "absent") to APPROVE a Special Exception (Section 310 - Principal Uses Permitted in Agriculture Districts - Use Unit 1205) to allow for an existing golf course and related uses in an AG District; finding that the use has been in existence for many years at the present location; on the following described property:

The NE/4 and a portion of the N/2, NW/4 of Section 13, T-18-N, R-13-E, Tulsa County, Oklahoma, being more particularly described as follows to wit:

Beginning at the NE/c, NE/4, Section 13, T-18-N, R-13-E; thence S 0°02'29" E along the east line of said NE/4 a distance of 2640.40' to the SE/c of said NE/4; thence S 89°46'36" W along the south line of said NE/4 a distance of 2635.68' to the SW/c of said NE/4; thence N 0°00'151" E along the west line of said NE/4 distance of 1320.16' to the SE/c of the NE/4, NW/4 of said Section 13; thence S 89°46'33" W along the south line of said NE/4, NW/4 a distance of 454.41'; thence N 0°00'151" E a distance of 1320.16' to a point on the north line of said Section 13; thence N 89°46'30" E along the said north section line a distance of 3087.54' to the Point of Beginning, containing 173.453 acres more or less. Less a tract identified as Tract "A" described as follows:

Beginning at the NE/c of said NE/4; thence S 0°02'29" E along the east line of said NE/4 a distance of 660.00'; thence S 89°46'30" W a distance of 660.00'; thence N 0°02'29" W a distance 660.00' to a point on the north line of said Section 13; thence N 89°46'30" E along the north line of said Section 13 a distance of 660.00' to the Point of Beginning containing 10.00 acres. The remaining acreage being 163.453 acres, more or less, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15102

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request a special exception to allow for church uses in an RS-3 zoned district, located 3514 South Yale Avenue.

Presentation:

The applicant, James Smith, 2925 West 56th Street, Tulsa, Oklahoma, stated that the Board had previously requested that he provide information concerning setbacks and parking. He informed that application has been made for an occupancy permit, and an extension of the privacy fence is required to screen the parking lot. A plot plan (Exhibit Z-1) was submitted.
Case No. 15102 (continued)

Comments and Questions:
Mr. Chappelle asked Ms. Hubbard if the applicant complies with all requirements for obtaining an occupancy permit, and she replied that all requirements are met, except for screening of the parking lot along the north property line.

Protestants: None.

Board Action:
On MOTION of SMITH, the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to APPROVE a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205) to allow for church uses in an RS-3 zoned district; per plot plan submitted and fencing requirements; finding that the building was previously used as an educational facility, and the granting of the request will not be detrimental to the area; on the following described property:

Beginning at the NE/c of said N/2, S/2, SE/4, NE/4; thence N 89°50'40" W along the north boundary of said N/2, S/2, SE/4, NE/4 a distance of 280'; thence south parallel to the east boundary of said N/2, S/2, SE/4, NE/4 a distance of 195.11'; thence S 89°50'40" E parallel to the north boundary of said N/2, S/2, SE/4, NE/4 a distance of 280'; thence north along the east boundary of said N/2, S/2, SE/4, NE/4 a distance of 195.11' to the Point of Beginning, LESS AND EXCEPT the east 50' thereof, City of Tulsa, Tulsa County, Oklahoma.

MINOR VARIANCES AND EXCEPTIONS

Case No. 15111

Action Requested:
Variance - Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a minor variance of front setback from the centerline of 4th Place from 52' to 51' to allow for an addition to the existing dwelling, located 4711 East 4th Place.

Presentation:
The applicant, Tom McGuire, 849 West 138th Place, Glenpool, Oklahoma, submitted a plot plan (Exhibit A-1), and requested permission to add a 3' extension to an existing garage. He pointed out that other structures in the area extend further into the setback than the proposed addition.

Protestants: None.
Case No. 14372 (continued)

Board granted a similar request for a variance of setback and screening requirements on the subject property, for a period of 3 years only. He informed that he has discussed the fence with his next door neighbor and found that he agreed to the installation of the chain link fence.

Comments and Questions:
Mr. Gardner asked the applicant if the west wall is solid, and he answered that it is solid. Mr. Gardner pointed out that the building wall will serve the same purpose as a screening fence, and the Board will have to determine if the balance of the lot shall have screening.

Interested Parties:
Laverne Tracy, stated that she owns the property to the east, 110 South Rockford, which houses the bar. She stated that, if the setback and the screening requirement are the only issues before the Board, she is not opposed to the application.

Additional Comments:
Ms. Bradley asked the applicant to state the use of the new building, and he informed that it will be used for an office and warehouse for storage of household goods.

Board Action:
On MOTION of WHITE, the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to APPROVE a Variance (Section 930 - Bulk and Area Requirements in the Industrial Districts - Use Unit 1223) of setback from the abutting R Districts from 75' to 18" to allow for the construction of a building; and to APPROVE a Variance (Section 1223.3 - Use Conditions - Use Unit 1223) of the screening requirements; finding a hardship demonstrated by multiple zoning classifications in the area and the fact that the area is planned for industrial; and finding that the building will have no windows on the west and will actually serve as a screen between the applicant's lot and the abutting residential property; on the following described property:

Lot 2, Block 14, Lynch and Forsythe's Addition, City of Tulsa, Tulsa County, Oklahoma.

Action Requested:
Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request a special exception to allow for an educational facility in an RS-3 zoned district, located at 3514 South Yale Avenue.
Case No. 14373 (continued)

Presentation:
The applicant, Thomas Birmingham, 1323 East 71st Street, Tulsa, Oklahoma, stated that he is representing the Jane Ann Stola Educational Foundation. He explained that the property in question is a structure comprised of 2 single-family residences which have previously been joined together. He informed that the building will now be used as an educational facility for gifted children. Mr. Birmingham stated that the days and hours of operation will be Monday through Friday, 9 a.m. to 2:30 p.m. and 3:30 p.m. to 6:30 p.m. He noted that there are 42 students in the morning session, with 7 faculty, and 10 students, with 3 faculty, in the evening class. He stated that no changes will be made to the existing structure, and parking will be located to the rear of the building. Letters of support (Exhibits L-1) from the Highland Homeowner's Association and Margaret Conner, an area resident, were submitted to the Board.

Comments and Questions:
Ms. Bradley asked if the school plans an expansion, and the applicant replied that the size of the facility will not be expanded.

Ms. White stated that, in her opinion, the proposed use is a good one, but is concerned with the large amount of cars parked on the street during the evening hours. Ms. White asked the applicant if any plans are being made to enhance the parking area, and Mr. Birmingham replied that he is not aware of any such plans, but will relay the concerns to the owner.

Protestants: None.

Board Action:
On MOTION of WHITE, the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to APPROVE a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205) to allow for an educational school facility in an RS-3 zoned district; subject to the school being limited to the existing structure and days and hours of operation being Monday through Friday, 9 a.m. to 6:30 p.m.; finding that the educational facility will be compatible with the neighborhood and in harmony with the spirit and intent of the Code and the Comprehensive Plan; on the following described property:

That part of the North Half of the South Half of the Southeast Quarter of the Northeast Quarter (N/2 S/2 SE/4 NE/4) of Section Twenty-one (21), Township Nineteen (19) North, Range Thirteen (13) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, being more particularly described as follows, to-wit:
Case No. 14373 (continued)

BEGINNING at the Northeast corner of said N/2 of S/2 of SE/4 of NE/4; thence North 89°50'40" West along the North boundary of said N/2 of S/2 of SE/4 of NE/4 a distance of 280 feet; thence South parallel to the East boundary of said N/2 of S/2 of SE/4 of NE/4 a distance of 195.11 feet; thence South 89°50'40" East parallel to the North boundary of said N/2 of S/2 of SE/4 of NE/4 a distance of 280 feet; thence North along the East boundary of said N/2 of S/2 of SE/4 of NE/4 a distance of 195.11 feet to the Point of Beginning, LESS AND EXCEPT the East 50 feet thereof, City of Tulsa, Tulsa County, Oklahoma.

Additional Comments:
Ms. White asked Mr. Birmingham to relay to his client the concerns of the Board regarding the parking problem occurring during evening events at the school, and he assured Ms. White that he will deliver the message to the owner of the school.

Case No. 14374

Action Requested:
Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request a special exception to allow for a church and related uses in an RS-3 zoned district.

Variance - Section 430 - Bulk and Area Requirements in Residential Districts - Use Unit 1205 - Request a variance of setback from the centerline of 46th Street North from 85' to 66'.

Variance - Section 440.7(d) - Special Exception Uses in Residential Districts - Use Unit 1205 - Request a variance of setback from the west property line from 25' to 24'.

Variance - Section 1205.3(a)1 - Use Conditions - Use Unit 1205 - Request a variance of lot area from 43,560 sq. ft. (1 acre) to 43,460 sq. ft.

Variance Section 1205.3(a)2 - Use Conditions - Use Unit 1205 - Request a variance to allow for parking in the required front yard.

Variance - Section 1340(e) - Design Standards for Off-Street Parking Areas - Use Unit 1205 - Request a variance of the screening requirements along the north, east and west property lines.

Variance - Section 1205.4 - Off-Street Parking and Loading Requirements - Use Unit 1205 - Request a variance of the parking requirements from 77 spaces to 52 spaces, located at 1205 East 46th Street North.

01.22.87:482(14)
ZONING CLEARANCE PLAN REVIEW

November 6, 2020
Phone: 918-902-8209

LOD Number: 2 REV
William S. Bell
2 E. Broadway
Sand Springs, OK 74063

APPLICATION NO: BLDR-066028-2020
(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)
Location: 3514 S. Yale Ave.
Description: 10’ CMU Block Wall

INFORMATION ABOUT SUBMITTING REVISIONS

OUR REVIEW HAS IDENTIFIED THE FOLLOWING CODE OMISSIONS OR DEFICIENCIES IN THE PROJECT APPLICATION FORMS, DRAWINGS, AND/OR SPECIFICATIONS. THE DOCUMENTS SHALL BE REVISED TO COMPLY WITH THE REFERENCED CODE SECTIONS.

REVISIONS NEED TO INCLUDE THE FOLLOWING:

1. A COPY OF THIS DEFICIENCY LETTER
2. A WRITTEN RESPONSE AS TO HOW EACH REVIEW COMMENT HAS BEEN RESOLVED
3. THE COMPLETED REVISED/ADDITIONAL PLANS FORM (SEE ATTACHED)
4. BOARD OF ADJUSTMENT APPROVAL DOCUMENTS, IF RELEVANT

REVISIONS SHALL BE SUBMITTED DIRECTLY TO THE CITY OF TULSA PERMIT CENTER LOCATED AT 175 EAST 2ND STREET, SUITE 450, TULSA, OKLAHOMA 74103, PHONE (918) 596-9601. THE CITY OF TULSA WILL ASSESS A RESUBMITTAL FEE. DO NOT SUBMIT REVISIONS TO THE PLANS EXAMINERS. SEE #2 BELOW

SUBMITTALS FAXED / EMAILED TO PLANS EXAMINERS WILL NOT BE ACCEPTED.

IMPORTANT INFORMATION

1. IF A DESIGN PROFESSIONAL IS INVOLVED, HIS/HER LETTERS, SKETCHES, DRAWINGS, ETC. SHALL BEAR HIS/HER OKLAHOMA SEAL WITH SIGNATURE AND DATE.
2. SUBMIT ELECTRONIC PLAN REVISIONS ON THE PORTAL AT HTTPS://TULSAOK.TYLERTECH.COM/ENERGOV4934/SELSERVICE. YOU WILL NEED TO REGISTER ON THE PORTAL IF YOU HAVE NOT PREVIOUSLY DONE SO.
3. INFORMATION ABOUT THE ZONING CODE, BOARD OF ADJUSTMENT (BOA), PLANNING COMMISSION (TMAPC), AND THE TULSA PLANNING OFFICE AT INCOG CAN BE FOUND ONLINE AT WWW.TULSAPLANNING.ORG; IN PERSON AT 2 W. 2ND ST., 8TH FLOOR, IN TULSA; OR BY CALLING 918-584-7526 AND ASKING TO SPEAK TO SOMEONE ABOUT THIS LETTER OF DEFICIENCY.

(continued)
REVIEW COMMENTS


BLDR-066028-2020 3510 S. Yale Ave. November 6, 2020

Note: As provided for in Section 70.130 you may request the Board of Adjustment (BOA) to grant a variance from the terms of the Zoning Code requirements identified in the letter of deficiency below. Please direct all questions concerning variances, special exceptions, appeals of an administrative official decision, Master Plan Developments Districts (MPD), Planned Unit Developments (PUD), Corridor (CO) zoned districts, zoning changes, platting, lot splits, lot combinations, alternative compliance landscape and screening plans and all questions regarding (BOA) or (TMPC) application forms and fees to a representative at the Tulsa Planning Office 918-584-7628 or esubmit@incog.org. It is your responsibility to submit to our office documentation of any appeal decisions by an authorized decision making body affecting the status of your application so we may continue to process your application. INCOG does not act as your legal or responsible agent in submitting documents to the City of Tulsa on your behalf. Staff review comments may sometimes identify compliance methods as provided in the Tulsa Zoning Code. The permit applicant is responsible for exploring all or any options available to address the noncompliance and submit the selected compliance option for review. Staff review makes neither representation nor recommendation as to any optimal method of code solution for the project.

1. Sec. 45.080-A - Fences and walls within required building setbacks may not exceed eight (8) feet in height, except that in required street setbacks (front setback) fences and walls may not exceed four (4) feet in height. The board of adjustment is authorized to modify these fence and wall regulations in accordance with the special exception procedures of Section 70.120.

Review Comments: Provide documentation indicating the proposed fence located in the front street setback will not exceed 4’ in height measured from grade or apply to BOA for a special exception to allow a fence to exceed 4’ in height in a front street setback. UNRESOLVED

2. Sec. 70.080-C: Applications for a Building Permit shall include a site plan that provides zoning data for the Zoning review portion of the Building Permit application. You have submitted a site plan that does not sufficiently cover all pertinent zoning data necessary for a complete review.

Review Comment: The zoning site plan is required to provide the following: Submit a site plan that provides the additional information listed below:
  - Actual shape and dimensions of the lot (not all dimensions clearly indicated on plan);
  - Location and dimensions of all easements;
  - Public rights of way as designated on the Major Street and Highway Plan. S. Yale Avenue ROW is 120’ total or 60’ from the centerline. Follow the link below:
    https://incog.maps.arcgis.com/apps/webappviewer/index.html?id=c688593c48564a81af1fe2609846e587
  - The location and dimensions of all existing buildings or structures, including distances to lot lines and distances to right of way;
  - Architectural projections for existing and proposed buildings and structures. Indicate the distance from the edge of the footing of the fence to the right of way and the face of the wall to the right of way. No portion of the fence can be within the right of way. RESOLVED

3. Sec.90.90-A: Required setbacks are measured from the applicable lot line, right-of-way, planned right-of-way or location referred to below. Building setbacks are measured to the nearest exterior building wall. Minimum setbacks that apply to other features (parking areas, fences, storage areas) are measured from the nearest point of the area or feature for which a setback is required. See §90.090-C for information on structures and building features that are allowed to occupy setback and yard areas in R zoning districts. Unless otherwise expressly stated, no part of any structure may be located within the street right-of-way, nor within the planned right-of-way of streets shown on the major street and highway plan, nor within 25 feet of the centerline of the right-of-way on streets not
shown on the major street and highway plan. If a variance of the prohibition against location of a structure within the right of way or planned right of way is granted by the Board of Adjustment, no part of any structure may be located within the street right-of-way, nor within the planned right-of-way of streets shown on the major street and highway plan, nor within 25 feet of the centerline of the right-of-way on streets not shown on the major street and highway plan, unless a license has been granted by the city, in the case of the right-of-way, or a removal agreement has been entered into, in the case of the planned right-of-way.

Review comment: Apply for a variance reviewed and approved by the Board of Adjustment to allow a fence in the Yale right-of-way. Contact the Board of Adjustment (918-584-7526 or esubmit@incog.org) for further information. Also, you must apply for a License Agreement for building improvements located inside the City right-of-way. Contact Chris Kovac in Engineering Services at 918-596-9649 for further information. UNRESOLVED

Note: All references are to the City of Tulsa Zoning Code. Link to Zoning Code:

Please notify the reviewer via email when your revisions have been submitted

This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter.

A hard copy of this letter is available upon request by the applicant.

END – ZONING CODE REVIEW

NOTE: THIS CONSTITUTES A PLAN REVIEW TO DATE IN RESPONSE TO THE SUBMITTED INFORMATION ASSOCIATED WITH THE ABOVE REFERENCED APPLICATION. ADDITIONAL ISSUES MAY DEVELOP WHEN THE REVIEW CONTINUES UPON RECEIPT OF ADDITIONAL INFORMATION REQUESTED IN THIS LETTER OR UPON ADDITIONAL SUBMITTAL FROM THE APPLICANT.

KEEP OUR OFFICE ADVISED OF ANY ACTION BY THE CITY OF TULSA BOARD OF ADJUSTMENT OR TULSA METROPOLITAN AREA PLANNING COMMISSION AFFECTING THE STATUS OF YOUR APPLICATION FOR A ZONING CLEARANCE PERMIT.
Feet

200

Subject Tract

BOA-23051

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

19-13 21

2.30
Members of the City of Tulsa Board of Adjustment,

Referencing:
Case Number: BOA-23051

Name:
Andrew Maddox

Address:
3506 South Winston Avenue,
Tulsa, OK 74135

I am not in favor of a special exemption to permit the wall built at the private residence located at 3514 South Yale Avenue.

The current property owners removed the previously existing natural barrier and replaced it with a non-compliant wall.

The reason for the special exemption is not cited in the hearing notice. I’m assuming they are either justifying their needs based on privacy and/or noise-abatement; which they have the means through existing compliant remedies to resolve, i.e. a compliant 4-foot front-facing wall and any mix of trees and shrubbery.

Thank you for your time and attention to this matter.

Respectfully,

Andrew Maddox
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Hello my home address is 4828 E. 35th St. which is the corner of 35th St. and yell. My home backs up directly to the property case number BOA Dash 23051 location 3514 S. Yale Ave. E.

Hello my home address is 4828 E. 35th St. which is the corner of 35th St. and yell. My home backs up directly to the property case number BOA Dash 23051 location 3514 S. Yale Ave. E.

My fence was damaged several months ago maybe about August or September and still stands in your repair in this condition. My tenant has a dog and has had to replace this makeshift panel put up by the builder several times to keep his pet inside our yard. We have asked repeatedly when this will be repaired and how.

We are totally in favor of the beautiful while they are building but request that our property be considered and taken care of properly if the new cement wall is going down the back of our property we would like the proper removal of the old fence and any dirt grass etc. replaced properly. We will need notifications are our tenant can properly care for his animal and we ask that it be done quickly without delay keeping the backyard intact.

We are totally in favor of the beautiful wall they are building but request that our property be considered and taken care of properly if the new cement wall is going down the back of our property we would like the proper removal of this old fence and any dirt grass etc. replaced properly. We will need notification so our our tenant can properly care for his animal and we ask that it be done quickly without delay keeping the backyard intact. We have been unable to have any response from the builder Larry or Cindy Rodriguez 918-407-9969 we would appreciate a phone call on how this will be handled

Thank you
Larry and Cindy Rodriguez
918-407-9969
Property address 4828 E 35 th St
Tulsa Oklahoma 74135

Our updated mailing address 10532 Cory Lake Dr., Tampa FL 33647
WSB Homes, LLC
2 E. Broadway Street, Sand Springs, OK. 74063

Regarding comment filed against special exception by Andrew Maddox and explanation of special exceptions:

-----Original Message-----
From: Andrew 'Tim' Maddox <att_maddox@hotmail.com>
Sent: Wednesday, November 25, 2020 12:44 PM
To: esubmit <esubmit@incog.org>
Subject: Comments on Case: BOA-23051

Members of the City of Tulsa Board of Adjustment,

Referencing:
Case Number: BOA-23051
Name: Andrew Maddox

Address:
3506 South Winston Avenue,
Tulsa, OK 74135

I am not in favor of a special exemption to permit the wall built at the private residence located at 3514 South Yale Avenue.

The current property owners removed the previously existing natural barrier and replaced it with a non-compliant wall.

The reason for the special exemption is not cited in the hearing notice. I'm assuming they are either justifying their needs based on privacy and/or noise-abatement; which they have the means through existing compliant remedies to resolve, i.e. a compliant 4-foot front-facing wall and any mix of trees and shrubbery.

Thank you for your time and attention to this matter.

Respectfully,
Andrew Maddox
From WSB Homes:

What Mr. Maddux has failed to realize is that the “existing natural barrier” was removed by the developer who bought the project out of auction. He cut down all of the trees and shrubs and poisoned them so they wouldn’t grow back so that when he was selling it you could see the house from the street. When my client originally lived there before his parents lost the house to foreclosure the shrubs were 25’ tall and were a good barrier but now with them cut down and dying we had to remove them. We have placed a wall and will be planting new trees and shrubs to help the curb appeal of the wall.

As you can see from this Google Earth capture there was a large amount of greenery along Yale ave.
As you can see from this capture when we started demo the greenery had been all cut down.

Currently we have a 10' tall cmu block wall constructed (see below) that will be covered by 4x16 cast stone tiles and decorative iron.

Current photo of project:
Proposed Gate:

Wall with Decorative Iron
Our client seeks privacy and protection and in order to do so we believe that the wall is the best option. WSB Homes failed on their end by not understanding that the property is unplatted therefore the easements didn't show up on any of the survey documents we had and we failed in not understanding the process of permitting and approval from all the appropriate city departments. We were having serious theft problems during the beginning phases of construction so we started construction of the wall. We do realize that we did not go through the appropriate processes in the beginning for this wall. We are now seeking special exceptions for our client.

In conjunction with the approval for the front property line wall we are looking for approval of the perimeter wall as well as approval for the rest of the construction of the home. We have already poured footings for the house before we realized the situation with the easements. We are working with Chris Kovac at the Utility Department for the approval to build the wall in a city easement.

Thank you for your time,

William Bell
WSB Homes
Impact Medical Marijuana processing (Moderate-impact Manufacturing & Industry Use) in the IL District (Section 70.120) approved in Case BOA-22981, subject to conceptual plan 22.6 of the agenda packet and designated as Suite C on the conceptual plan. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 8 BLK 3, EASTGATE INDUSTRIAL PARK THIRD ADDN RESUB, City of Tulsa, Tulsa County, State of Oklahoma

23051—William Bell

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

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

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

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

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

Mr. Van De Wiele asked Mr. Bell why is the homeowner wanting a twelve-foot wall in a location where there normally would only have a four-foot wall or fence, and why does the homeowner want a ten-foot wall where there would otherwise normally only be allowed an eight-foot wall? Mr. Bell stated that during construction, when the project was first started, there was a six-foot chain link construction fence that was continuously broken in to, and through the first eight months of the project the lock and chain on that fence was replaced seven times and then overnight security was hired to sit in front of the house for four months. With the wall built the theft ceased. His client lived on the
property as a child and he is a well-known businessman and wants his privacy and protection for his family. The homeowner is concerned about someone being able to jump a four-foot fence and a person cannot climb or jump a ten-foot wall.

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

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

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

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

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

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

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

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

Mr. Brown asked Mr. Bell if the garage was already built. Mr. Bell stated the garage is not built but the footings are poured, but the slab is not poured.
Mr. Van De Wiele asked Mr. Chapman about what Mr. Bell stated about the garage because he does not see a request regarding a garage. Mr. Chapman stated that he did not know. Mr. Chapman stated the Board is dealing with the wall height in the front and the right-of-way; the Board cannot do anything about the easements.

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

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

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

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

**Interested Parties:**
There were no interested parties present.

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

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

Ms. Radney stated that she would be a hard no vote on anything over eight feet and probably a no for the location of the Variance request.
Mr. Van De Wiele suggested a continuance in this case to allow the applicant to bring another plan for consideration. Mr. Van De Wiele stated that he hates to put projects on hold but that the nature of what happens when a person builds without a permit.

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

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

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

23052—Back Land Use Planning – Carolyn Back

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

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

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

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

**Interested Parties:**
There were no interested parties present.