

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1267  
Tuesday, February 23, 2020, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2nd Street

| <b>MEMBERS PRESENT</b>   | <b>MEMBERS ABSENT</b> | <b>STAFF PRESENT</b>            | <b>OTHERS PRESENT</b> |
|--|-----------------------|---------------------------------|-----------------------|
| Bond, Chair<br>VanDeWiele, V. Chair<br>Radney, Secretary<br>Brown<br>Shelton |                       | Wilkerson<br>Chapman<br>Sparger | Blank, Legal          |

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on February 18, 2020, at 10:29 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.

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

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

<https://www.gotomeet.me/CityOfTulsa/boa-gotomeeting-in-council-chambers-february-23rd>

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

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Mr. Chapman asked Ms. Blank if the Board was required to have a roll call vote at the meeting in accordance with the new update to the Open Meetings Act. Ms. Blank answered affirmatively.

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### **MINUTES**

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Bond, Brown, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **APPROVE** the **Minutes** of the February 9, 2021 Board of Adjustment meeting No. 1266.

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### **UNFINISHED BUSINESS**

#### **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**)

**Ms. Radney entered the meeting at 1:15 P.M.**

##### **Presentation:**

**William Bell**, 2 East Broadway Street, Sand Springs, OK; stated he would like to keep the wall that was built on the front property line of the subject property. He has submitted new rendering showing several options, and Mr. Chapman placed the options on the overhead projector for viewing while Mr. Bell explained the renderings. The

previous home owner cut down trees that were substantially taller than the wall that is existing today. The wall as it is built currently will have landscaping in front of it and that is shown in the renderings. For the sake of his client, who needs privacy and security, the wall was constructed, and it was not until after construction that he found out that there were easements that the wall was built on top of, and he did not realize there was a height restriction. Now the wall is built, and he is looking to receive approval for the existing wall. Mr. Bell stated that Option A is the original intent and design. Option B is a shorter version of the same wall, and Option C cuts away some of the existing wall and adding a decorative panel at the top that can be seen through. Mr. Bell stated he would like to have Option A approved.

Mr. Van De Wiele asked Mr. Bell about Option B, would the wall be a masonry or stucco finish. Mr. Bell answered affirmatively. Mr. Van De Wiele asked Mr. Bell if the wall in Option B is 8'-0" in height with a 2'-0" of decorative paneling on top of the wall for an overall 10'-0" height. Mr. Bell answered affirmatively.

Mr. Van De Wiele asked Mr. Bell state his hardship for the Variance request. Mr. Bell stated that when he first started the project, he had received documentation from his surveyor on the property and the survey did not show the right-of-way or the easements. It was an inspector that came to the job site that brought the easement issue to his attention. The front portion of the wall that protrudes toward the street is the portion that is inside of the right-of-way.

Mr. Van De Wiele asked staff if the wall is in the actual right-of-way or is it in the planned right-of-way? Mr. Chapman stated there is 50'-0" of dedicated right-of-way from the center on Yale, so where the wall is located should be within the extra 10'-0" between the 50'-0" and the extra 10'-0" for the full planned right-of-way.

Mr. Van De Wiele asked Mr. Bell if he had worked with the City about the fence that is located over the city easement lines. Mr. Bell answered affirmatively.

Mr. Van De Wiele asked staff if the location of the gates presents a problem from a construction standpoint, zoning standpoint or a permitting standpoint. Mr. Wilkerson stated that in the circumstance for a building permit there are no design standards for what the gate can look like. If it were a subdivision that provides access to multiple lots there are design standards for fire access, but this is different than that.

Mr. Van De Wiele asked Mr. Bell if the wall was shown on the building permit application plans. Mr. Bell stated that he does not think it was, and he does not remember at what point he added it to the plans.

Mr. Brown asked Mr. Bell about the height of the wall for the side and back lot. Mr. Bell stated that those walls will be two feet shorter than the front existing wall.

Mr. Wilkerson stated that the Zoning Code stipulates the setback on an arterial street is 35'-0" from the planned right-of-way, so toward the street the fence is limited to four feet in height.

Mr. Bond asked Mr. Bell to explain the proposed height of the fence on Options A, B, and C. Mr. Bell stated that in Option A is the original design and it is 12'-0" columns, 10'-0" wall with 2'-0" of decorative panels on top of the wall. Option B is a 10'-0" tall column, 8'-0" wall with 2'-0" of decorative panels on top of the wall. Option C is keeping the wall and column as it is constructed now, 12'-0" columns and 12'-0" wall but cutting out a section in the middle of each section of the wall and inserting a 3'-6" x 8'-0" decorative panel that can be seen through.

Mr. Van De Wiele asked Mr. Bell if it were his plan to finish the exterior of the wall on all four sides so the neighbors would be viewing a nice finish. Mr. Bell answered affirmatively.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Mr. Van De Wiele stated that it is a good thing that the fence height is now a Special Exception request and not a Variance request because he would be struggling to find a hardship for a fence height.

Ms. Shelton agreed with Mr. Van De Wiele, though with the landscaping to soften the fence it will be easier to drive by, but she is struggling with the placement. It seems like if the fence had been built where it should have been there would not have been any hardship.

Mr. Van De Wiele stated that if the wall had been shown on the permitting documents, he is fairly confident that it would have been caught, both from a height and a location standpoint.

Ms. Blank stated that on page 2.3 in the agenda packet, the Code will require the removal agreement under Section 90.090-A.

Mr. Brown asked what the Board's preference would be for the wall height. Mr. Van De Wiele stated that he would struggle with anything over ten feet tall. Mr. Van De Wiele stated that in reviewing Option B, View 1, if the Board were to approve that and require the installation and maintenance of the landscaping, he may be able to vote for it.

Ms. Radney stated she is still a hard no for anything over eight feet. Ms. Radney stated she thinks eight feet is excessive regardless of the design, and she thinks it is a self-imposed Variance. She may be able to vote for someone else's motion, but she cannot make a motion for this request.

Mr. Brown stated he is in favor of a ten foot or lower wall; he sees little or no reason to build a compound for the family in this particular place. He finds it difficult to approve of a blatant mistake of building over easements. When he was practicing architecture that was a sin and that architect error was paid for by the architect. Again, this Board is being asked for forgiveness for what has happened.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 2-3-0 (Shelton, Van De Wiele "aye"; Bond, Brown, Radney "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to permit a 10-foot wall in the front street setback and **DENY** a 10-foot wall around the perimeter (Section 45.080-A). The architectural features of the fence/wall will be as shown, ignoring the location of such fence or wall, in Option B of the applicant's submission. This will also require the finishing of the exterior wall faces with stucco or a similar materials around the entire perimeter of the property. It is also required that there will be landscaping of the type and number and character as shown in Option B presentation. The applicant is to obtain a license agreement and/or removal agreement for all structures and walls that are located or are to be located in any portion of the City right-of-way, the City planned right-of-way or any public easement areas. This approval is subject to the site plan on page 2.27 of the agenda packet, other than the location of the wall along Yale Avenue, such location is to be determined by the subsequent Variance, if at all. The Board has found that the 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:

**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**

**MOTION FAILED**

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 an 8-foot masonry wall in the front street setback and a 10-foot wall around the perimeter (Section 45.080-A). The architectural features of the fence/wall will be as shown, ignoring the location of such fence or wall, in Option B of the applicant's submission. This will also require the finishing of the exterior wall faces with stucco or a similar materials around the entire perimeter of the property. It is also required that there will be landscaping of the type and number and character as shown in Option B presentation. The applicant is to obtain a license agreement and/or removal agreement for all structures and walls that are located or are to be located in any portion of the City right-of-way, the City planned right-of-way or any public easement areas. This approval is subject to the site plan on page 2.27 of the agenda packet, other than the location of the wall along Yale Avenue, such location is to be determined by the subsequent Variance, if at all. The columns and the gate sections

for the two gates may be no more than 10'-0", ignoring the location of the said wall which is to be dealt with in a subsequent Variance at today's hearing; any other wall or column or wall will exceed 8'-0" regardless if it is one wall or a wall plus panel. The Board has found that the 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:

**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**

**Mr. Bond stated he does not want this to set precedent, and he does not see this as a precedent based on the unique situation of how the house faces and where it is located.**

On **MOTION** of **SHELTON**, the Board voted 5-0-0 (Bond, Brown, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; none absent) to **DENY** the request for 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); 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**

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### **NEW APPLICATIONS**

#### **23082—Troy Trower**

**Action Requested:**

Special Exception to allow an addition to a non-conforming structure that has a non-conforming side setback less than 5 feet from the side property line (Section 80.030-D). **LOCATION:** 1716 West Cameron Street North **(CD 4)**

**Presentation:**

**Troy Trower**, 1716 West Cameron Street, Tulsa, OK; stated he would like to add a second story to his existing house. The height and the width of the house will not change. Mr. Trower stated he has spoken with the neighbors and no one has any objections to his request.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Brown, Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the Special Exception to allow an addition to a non-conforming structure that has a non-conforming side setback less than 5 feet from the side property line (Section 80.030-D), subject to conceptual plans 3.15, 3.16, 3.17, 3.18, 3.19, 3.20 and 3.21 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:

**ALL LT 4 E 2 LT 5 BLK 17, IRVING PLACE, City of Tulsa, Tulsa County, State of Oklahoma**

**23083—Stephen and Elena Gregg**

**Action Requested:**

Special Exception to extend the ten-year time limit for the manufactured home originally approved in BOA-17066-A for an additional ten years (Section 40.210).

**LOCATION: 2828 North Gilcrease Museum Road (CD 1)**

**Presentation:**

**Ivan Korsakov**, 2828 North Gilcrease Museum Road, Tulsa, OK; stated he is Stephen and Elena Gregg's son. The mobile home was approved ten years ago, and he would like to have another ten-year approval. He and his family reside in the mobile home. He has a disabled daughter and being able to live near his parents is an asset when the nurses are not able to come to the house to assist in caring for his daughter.

Mr. Van De Wiele asked Mr. Korsakov if the ten evergreens had been planted, which was a condition of the approval ten years ago. Mr. Korsakov answered affirmatively, stating that unfortunately the trees did not survive despite the nurturing.

Ms. Radney asked Mr. Korsakov if the mobile home was new in 2011. Mr. Korsakov answered affirmatively.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Brown, Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the Special Exception to extend the ten-year time limit for the manufactured home originally approved in BOA-17066-A for an additional ten years (Section 40.210). Today's approval is for ten years, February 2031. 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:

**The East 774.4 ft of the S/2 of the NE/4 of the SE/4 of Sec. 21, T-20-N, R-12-E, of IBM City of Tulsa, Osage County, State Of Oklahoma**

**23085—Wallace Engineering – Mark Capron**

**Action Requested:**

Variance to reduce the required frontage in the IL District from 50 feet to 0 feet (Section 15.030, Table 15-3). **LOCATION:** 5323 South Olympia Avenue West (**CD 2**)

**Ms. Shelton recused and left the meeting at 2:23 P.M.**

**Presentation:**

**Mark Capron**, Wallace Engineering, 123 North Martin Luther King, Jr. Boulevard, Tulsa, OK; stated the subject property currently is a YMCA camp and the property is unique in that it is located between two interstate highways. To the west is I-75, to the south is a piece of property that is a trust that will possibly become an expansion of Turkey Mountain Wilderness area, and to the northeast there is a flood plain and the rear of another development. There is some frontage located along South Olympia Avenue and that serves as a driveway for the subject property. What has developed between the Wallace Engineering engineers and the engineers for the City of Tulsa is a desire to close that right-of-way; the City of Tulsa does not want that right-of-way because they do not want to maintain it and it is Department of Transportation right-of-way to the north. The street needs to be improved and he does not believe it was ever built as a street, and what is being proposed is that it becomes a private drive to the YMCA property. Mr. Capron stated that he has a Letter of Understanding from the City of Tulsa. Mr. Capron has a site plan of the property placed on the overhead projector and he explained the layout. Mr. Capron stated the City requests that they will have emergency access and they also want the access easement could not be closed without the City's approval, so basically it makes it a three-party agreement which is standard requirement for emergency access. This is a temporary situation, but he does not know how long it will be before the right-of-way is acquired on the northwest corner which will then create the required frontage.



Mr. Van De Wiele asked Mr. Capron if the City is going to vacate the existing stub of Olympia. Mr. Capron answered affirmatively. Mr. Van De Wiele asked Mr. Capron asked if it would be vacated from a utility easement standpoint. Mr. Capron answered no stating that there is also a waterline easement that is not within the right-of-way that will remain in place.

Mr. Van De Wiele asked Mr. Capron if there was going to be an emergency access agreement granted to the City. Mr. Capron answered affirmatively.

Mr. Wilkerson asked Mr. Capron if this will remove the City's liability to maintain the bridge or the drainage structure, and if so, is the YMCA comfortable with the maintenance of the bridge? Mr. Capron deferred to Mr. Wallace of the architect team.

**Interested Parties:**

**Tyler Wallace**, 320 South Boston Avenue, Tulsa, OK; stated the vacation is up to the creek. ODOT is going through a ten-year project and they will be responsible for the bridge and creek.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Brown, Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the Variance to reduce the required frontage in the IL District from 50 feet to 0 feet (Section 15.030, Table 15-3), subject to site plan 2.27 if the agenda packet, other than the location. The approval is subject to the following conditions:

- An easement will be dedicated for emergency access and the dedicated access easement may not be terminated unless the City consents in writing that the City has the right to enforce the dedicated private access easements and that the dedicated private access easement grant an emergency access easement to the City for Police, Fire, Ambulance, and other municipal purposes
- Vacation of the right-of-way will not act to vacate public utility easements unless to the extent the City agrees in writing
- as per the Memorandum of Understanding dated August 17, 2021 and per Addendum #3 of the agenda packet

The Board has found that the hardship is that this historically used piece of property has never had more than minimal frontage and that the dedicated easement along with future plans will provide for access to the property, and that such the same is a hardship that will justify the granting of the Variance. 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:

**SE NW LESS BEG SWC SE NW TH N TO NWC E406.72 S1318.51 W414.2 POB SEC 35 19 12 27.55 ACS, City of Tulsa, Tulsa County, State of Oklahoma**

**Ms. Shelton re-entered the meeting at 2:40 P.M.**

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**OTHER BUSINESS**

None.

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**NEW BUSINESS**

None.

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**BOARD MEMBER COMMENTS**

Mr. Brown stated that he tried out the assisted hearing device at today's meeting, he is the first to try out the system, and it works great.

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There being no further business, the meeting adjourned at 2:41 p.m.

Date approved: 3-9-2021

Andrew P. Burt  
Chair