

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1288
Tuesday, February 8, 2022, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bond, Chair Barrientos Wallace Radney, Vice Chair Brown, Secretary		Wilkerson Chapman S. Kelvington K. Davis R. Jones	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on February 2, 2022, at 10:53 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Bond called the meeting to order at 1:00 p.m.

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

The Board members and staff members attending in person are as follows:

- Mr. Austin Bond, Chair
- Mr. Tomas Barrientos
- Ms. Audrey Blank, City Legal
- Mr. Steve Brown, Secretary
- Ms. Burlinda Radney
- Mr. Tyler Wallace
- Mr. Dwayne Wilkerson, Tulsa Planning Office
- Mr. Austin Chapman, Tulsa Planning Office
- Ms. Sandra Kelvington, Tulsa Planning Office
- Mr. Kendal Davis, Tulsa Planning Office
- Ms. Robi Jones, Tulsa Planning Office

MINUTES

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Barrientos, Bond, Brown, Radney, Wallace "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the December 14, 2021, Board of Adjustment meeting No. 1285.

UNFINISHED BUSINESS

23229- Josh Clark

Action Requested:

Variance to increase the number of allowed signs per street frontage in the OL District from 1 sign to 4 signs along South Harvard Ave. (Sec.60.060-B.1)

LOCATION: 4555 S. HARVARD (CD 9)

Presentation:

Jonathan Cowan- 1717 S. Boulder Ave Suite 106

Per the request of the board, they have gathered a summary of the variance language and codes. They have provided an update of the sign dimensions and have provided the total square footage of the wall signs and street signs. The totals come to an additional 19 sq ft. above what is allowable by code.

Mr. Brown asks if the sign at the road has been eliminated? Mr. Cowan responds no because it is not a large sign and the location. He felt like they were starting to come to a level of comfort with all the signs at the last board meeting.

Mr. Brown asks if they have done anything to lower the monument sign. Mr. Cowan responds no. Mr. Brown continues to say that he does not like that, and that he likes the signs on the building, but the monument sign is not acceptable to him.

Interested Parties:

There are no interested parties.

Comments and Questions:

Mr. Bond states they need a proper hardship to approve this. That there is an existing sign and subsequent additional spaces that allow for a hardship. He feels it is like another case for an insurance company the board approved in either November or December 2021.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-1-0 (Radney, Bond, Wallace, Barrientos "aye"; Brown "nays"; no "abstentions"; none absent) to **APPROVE** a **VARIANCE** to increase the number of allowed signs per street frontage in the OL District from 1 sign to 4 signs along South Harvard Ave. (Sec.60.060-B.1) Finding the hardship to be the existence of a monument sign that predates the division of the property into separate business spaces and per the conceptual plans submitted today as auxiliary documents in the agenda packet and subject to the condition that the wall signs do not exceed a display area of 32square feet. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose.
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification.
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner.
- e. That the variance to be granted is the minimum variance that will afford relief.
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan, for the following property:

LT 7 BLK 2,VILLA GROVE HGTS NO 1

23239- Jones, Gotcher & Bogan P.C

Action Requested:

Special Exception to permit a fence or wall to exceed 4-feet in height inside the required front street setback (Sec. 45.080-A)

LOCATION: 3501 E. 107 PL. S. **(CD 8)**

Presentation:

James Weger- 15 East 5th Street Suite 3800

Mr. Weger represents his clients and homeowners, the Millers. His clients purchased the home and have completed a very extensive remodel. But when they purchased the home it had an existing fence along the front, but when you pull up to their home, it

drops approximately 30ft below the street level. To address this, they have stair stepped down from the street to the front door of the home. The street is only used by the three homeowners. They are seeking the approval of the special exception per drawing 3.4 of the agenda packet. Mr. Weger further states that is needed for the protection of the home and those driving down the road.

Interested Parties:

No interested parties.

Comments and Questions:

Mr. Bond drove to visit this location and believes that it is topographically unique and challenging. He believes it is not injurious to the neighborhood based on the presentation.

Mr. Brown drove to the location and peeked through the gate to the cul-de-sac and was surprised by the drop to the house. He feels it is a very open and appropriate fence and he tends to support.

Mr. Wallace supports

Ms. Radney states that she appreciates the details of the site plans submitted and she tends to support.

Board Action:

On **MOTION** of **WALLACE**, the Board voted 5-0-0 (Barrientos, Bond, Wallace, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** a **SPECIAL EXCEPTION** to permit a fence or wall to exceed 4-feet in height inside the required front street setback (Sec. 45.080-A) Per the conceptual plans 3.5, 3.6, 3.15, 3.31-3.32 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 area for the following property:

LT 6 BLK 1, PHILCREST

23246- Sam Cook

Action Requested:

Special Exception to permit a Carport in the street setback and the street yard with modifications to its allowable dimensions and setbacks (Sec. 90.090-C1);

LOCATION: 4113 W. 5 St. (CD 1)

Presentation:

Applicant was not present

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Chapman spoke to applicant and at the applicant stated that he has had some health issues and has not been able to attend.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Barrientos, Bond, Wallace, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the **SPECIAL EXCEPTION** to permit a Carport in the street setback and the street yard with modifications to its allowable dimensions and setbacks (Sec. 90.090-C1) to the April 12, 2022 meeting. For the following property:

W 82' OF LT 11 & TH W 82' OF LT 12 BLK 1,VERNDALE

NEW APPLICATIONS

23257- James Means

Action Requested:

Variance to reduce the 25-foot rear setback in an RS-2 District to permit an addition to the residence (Sec. 5.030-A, Table 5-3)

LOCATION: 2808 E. 23rd St. S. **(CD 4)**

Presentation:

James Means- 5936 S. Lewis with Kitchen Concepts

They are adding an addition for a couple that includes a bedroom and bathroom, so the owners have the room to age in place at their home. They have been working on this project for the past 1.5 years and they did not know they needed the variance until the architect submitted the completed plans. Mr. Means states that they have sent letters to the surrounding neighbors, and they have heard back from some of the neighbors and they were in support of.

Mr. Bond asks about the hardship. Mr. Means states that the house sets on a corner and the side yard is considered the backyard.

Interested Parties:

No interested parties.

Comments and Questions:

Mr. Bond states that it is an older house and older neighborhood, so he has no issues.

Mr. Chapman that the 40ft building line per the original plat that city code would allow them to build another 5ft to the west if the property owners wanted to. By code they are only required a 30ft setback from Delaware.

Board Action:

On **MOTION** of **WALLACE**, the Board voted 5-0-0 (Barrientos, Bond, Wallace, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** a **VARIANCE** to reduce the 25-foot rear setback in an RS-2 District to permit an addition to the residence (Sec. 5.030-A, Table 5-3). Finding the hardship to be the location of the existing house predates the modern zoning code per the conceptual plans shown on 5.7 of the agenda packet. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose.
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification.
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner.
- e. That the variance to be granted is the minimum variance that will afford relief.
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan, for the following property

LT 1 BLK 1,SOUTH EAST HIGH RIDGE PRT L8 J P HARTER'S SUB

23258- Jaunita Gonzalez

Action Requested:

Special Exception to permit a fence or wall to exceed 4-feet in height inside the required street setback (Sec. 45.080-A)

LOCATION: 8938 E. Admiral Pl. S. (CD 3)

Presentation:

Juanita Gonzalez- 8938 E. Admiral Street

Ms. Gonzalez is requesting the special exception to permit a fence on their business property due to recent crime and break ins. The surrounding properties have existing fences, so their fence will fit in with the area. The fence will be 59ft and made of a wrought iron type of fencing.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Bond, Mr. Wallace, and Ms. Radney are in support of.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Barrientos, Bond, Brown, Radney, Wallace "aye"; no "nays"; one "abstentions", Bond; none "absent") to **APPROVE** a **SPECIAL EXCEPTION** to permit a fence or wall to exceed 4-feet in height inside the required street setback (Sec. 45.080-A) Per the conceptual plans shown on 6.7 of the agenda packet and the amended plans submitted today with a wrought iron type of fencing to be installed. 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 area for the following property:

N162.5 E140 LT 3 LESS BEG NEC TH S33 W140 N32.8 E140 POB BLK 5, DAY SUBURBAN ACRES

23259- Marvin Primas

Action Requested:

Variance to allow the floor area of all detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-A); **Special Exception** to exceed the permitted driveway width (Sec. 55.090-F)

LOCATION: 2424 E. 29th Pl. N. (CD 1)

Presentation:

Charlette Fisher- 2424 E 29th Pl. N.

Requesting a variance and exception to add a garage for additional storage of equipment due to theft. They want to protect their property and equipment they own. The property has an existing home and garage. They have an existing driveway that they will expand an additional 5' for access to the new garage.

Mr. Bond asked when the property was originally plotted? Mr. Chapman replies the subdivision was originally platted in 1946.

Ms. Radney asks how many curb cuts they have on the property, to which Ms. Fisher replies three.

They own all the surrounding properties on the block and across the street is a church, so they do not have any neighbors.

Interested Parties:

No interested Parties

Comments and Questions:

Mr. Bond and Ms. Radney are in support of.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Barrientos, Bond, Wallace, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** a **VARIANCE** to allow the floor area of all detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-A). Finding the hardship to be the existing platting of the neighborhood predates the current zoning code and with the new revisions to the lot size and dimensions and the topographically unique challenge to the area. Per the conceptual plans 7.8-7.9 of the Agenda Packet and **APPROVE** a **SPECIAL EXCEPTION** to exceed the permitted driveway width (Sec. 55.090-F) 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 area. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose.

- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification.
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner.
- e. That the variance to be granted is the minimum variance that will afford relief.
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan, for the following property

LTS 3 THRU 7 BLK 7, AMOS T HALL ADDN

23260- Nate Nebergall, 5 Points Council, LLC

Action Requested:

Special Exception to permit a Moderate-impact Medical Marijuana Processing (Moderate-impact Manufacturing and Industry) Use in the IL District (Sec. 15.020, Table 15-2)

LOCATION: 3153 N. Lewis Ave. E.; 3147 N. Lewis Ave. E.; 3139 N. Lewis Ave. E.; 3131 N. Lewis Ave E.; 3123 N. Lewis Ave. E. **(CD 1)**

Presentation:

Nate Nerbergall 58100 S Lewis Ave, Suite 266

Mr. Nerbergall is here to seek a special exception for the properties listed. It is currently zoned for low impact, but they are seeking to make it moderate impact processing. They feel it would not be detrimental to the neighborhood as there is a dispensary current located across the street to the north. They will be doing either water or food-based extractions. Mr. Nebergall notes the entire property is fenced in and they will be adding state of the art security systems to the property. The new owners will be reskinning the buildings and notes they are currently in poor condition, and he believes the improvement will bring future economic development to the area.

Mr. Browns asks if they will be using all six of the current buildings on the property, to which Mr. Nebergall replies yes. All six buildings will be developed as industrial light and cannabis growing is already permitted in the area.

Ms. Radney asks if they will potentially using this a grown facility. Mr. Nebergall replies yes because it is already permitted, and a special exception is not needed for that purpose.

Ms. Radney asks if they have any refined information on the process they will be using. Mr. Nerbergall responds yes and indicates that they will use water, food, or limited heat processing. They will not be using a combustible process.

Ms. Radney states that she is familiar with this site and agrees with the applicant that the site is not in the best condition but acknowledges there is an intense effort to add new residential construction close to this property, including Habitat for Humanity. She is not inclined towards and intensity of industrial use in this corridor, especially without a known tenant and the exact intensity of the activity that would be occurring.

Mr. Bond asks for clarification if this use by right for agricultural cultivation. Mr. Chapman replies yes and indicates they would be able to conduct low-impact processing such as pre-rolling marijuana cigarettes and extraction for food base usage, subject to them bringing the buildings up to code.

Interested Parties:

Jeanetta Williams- 2240 N. Quincy Ave

Ms. Williams's parents reside at 3140 N Lewis, directly across the street from the facility. They have been landowners on that corner for over fifty years and she has brothers that also live on the same street. She is opposed to this due to the odor and the subsequent poor air quality, and the size of the land / processing center. Ms. Williams would like to give some of the Governor's reasonings that were mentioned his State of the State Address in which he stated the proud state of Oklahoma is a state of law and order. That prefaced his talk about the marijuana industry in Oklahoma, in which he acknowledged that it is poorly regulated and that when the law was created the initial petition was poorly written. He says that there over 8,300 growers in the state of Oklahoma and that all the drugs being grown and processed in Oklahoma are not being distributed legally, which can lead to other issues such as cartels, trafficking etc. Ms. Williams last statement is if Governor Stitt does not trust the marijuana industry in the state of Oklahoma why should they trust it in their neighborhood?

Corinci Wilson- 1750 E. Mohawk Blvd

Dr. Wilson is here on her lunch hour because her neighbors are at work, and she is here on their behalf. She is opposed to this special exception. There is currently a dispensary down the road, there is a school one mile down the road, they have a home for services for women and children in the area. Dr. Wilson does not want the processing center in this area. She feels that Mr. Nerbergall is not giving enough information on who is operating the facility, who is doing the processing and how it will be operated and facilitated. She says Mr. Nerbergall did not reach out to any of the neighbors, she was only informed through the neighborhood association. This is not the type of manufacturing and employment opportunities they want in the neighborhood.

Essenchay Williams- 2240 N. Quincy Ave

Ms. Williams states that her grandparents have lived in the house across for years and she has known this neighborhood her entire life. Ms. Williams states that although there is a dispensary down the road, it does not have the same impact as this processing plant with the size and capacity of this location. Mr. Nebergall does not know who will be occupying this facility and once they have a tenant, they could want to change the impact of the processing. She does not see any positive coming out of this, but she knows a lot of negatives that will come from it such as higher rates of crime. Mr. Bond asks Ms. Williams if she had the opportunity to sit down with the applicant if that would be helpful? Ms. Williams said it would be helpful and she would like more information, but it may not change her mind. They want to know who is coming into their neighborhood and they want to keep their neighborhood safe. Ms. Williams further states that her daughter attends the school down the road, and she does not want her exposed to what this facility may bring.

Sylvia King- 1039 E. 116th Pl. N

Ms. King grew up in this neighborhood and she spoke with her brothers who are homeowners in the neighborhood. She also has elderly neighbors that have been there for a long time. Ms. King says there are new homes that are being built and bought, as well as homes for Habitat for Humanity. They are concerned about the crime and the patrons of that type of business. Ms. King says that it is a mind-altering drug, and it will bring people to the area that will try to obtain the marijuana illegally. Ms. King is opposed and will not change her mind. Crime rate will go up and home values will go down.

Stephanie Porter- 4347 Yellow Rose Drive – Georgia

She is in town visiting her parents and saw the notice. She had to explain the letter to her parents because they did not understand. Ms. Porter states that the air quality is already poor due to the dispensary down the road, you could smell the weed. If this facility is allowed, it will not help the new development in the area.

Ms. Radney asks if her parent's home is the only residential feet within the 300' area, to which Ms. Porter responds yes.

Raymond Courtney- 9404 S. Delaware Ave

Mr. Courtney is the owner of Raystar Properties, and he is surprised by the level of participation at the meeting on this matter. Raystar Properties are substantially committed and invested in the long-term revitalization of North Tulsa which began eighteen years ago. Last summer they purchased thirty properties on the north side, of which seven of those properties are in a new addition directly west of the proposed processing facility. Mr. Courtney owns a block of new residential property and is in the process of investing \$2 million dollars in this new residential property. If this new special exception is approved, it will impair the value of their investment and it will change his company's plans for development in the area. This special exception is injurious to the neighborhood and the public welfare. In closing is specifically disagrees with the applicant that this activity is lawful; it is against federal law at every level.

Mr. Courtney humbly and respectfully asks that the board will deny and reject the proposed special exception.

Tyson Banks- 2707 E 32nd St. N

Mr. Banks asks the Board what they see in the next 10-20 years in the neighborhood and area. He understands the people that stay there, but will they still be there down the road. He asks if they want change or to stay the same? He asks what will the new business bring? New jobs? Mr. Banks would like his neighbors to give something new a chance and look towards tomorrow. He believes they need to have an open mind and he does not understand the issues they have with the proposed facility. He originally came to oppose, but now feels he needs to have an open mind.

Ms. Radney states that they are a land use board and are charged with helping the community make variances and special exceptions that are deviations from the Zoning Code and keep things from being injurious to the neighborhood and that is in keeping with the plan because you do need to be able to send strong signals to businesses and people building houses for the city and what those are envisioning to the area. Ms. Radney does add that one reason there is so much tension in this area is that unlike other areas of the town they do have a lot of residential housing that is against industrial uses, not to mention the freeway that was placed in the neighborhood. Ms. Radney states that the board wants to protect the quality of life over the next 100 years, and they are there to protect areas from this happening. Ms. Radney is agnostic on cannabis, but she is not agnostic on the quality for life for people that live in neighborhoods that are designed to be neighborhoods.

Rebuttal:

Mr. Nebergall would like to add:

- They buyers reside in Tulsa and are part of the community
- Medical Marijuana and processing is a state law that was voted on by the citizens of Oklahoma.
- The zoning does currently allow for growing and he does not see a buyer coming in and using all that space for processing. It would just be the opportunity to choose one of the buildings. If they, did it would be unprecedented at this time.
- Everything will be done persona to code and what they city requires regarding safety, so on and so forth, before you can get a certificate of occupancy.
- The security requirements are state of that art and second to none.
- All buildings on the property will be brought to code.
- It is not a dispensary, just a special exception from low impact to moderate processing.

Comments and Questions:

Mr. Bond would like to educate everyone that they are here to give exceptions to the existing city code, and they cannot just pass them out, they have defined rules to be

followed. In his mind the biggest concern for the neighborhood is the cultivation and what he has heard the most complaints about. Mr. Bond says that this board does not have the power to shut that down. That if the board passes or refuses to pass the special exception for processing the applicant is already aware he can use it by right for cultivation. Mr. Bond proposes that they base their decision on the code, that it is not injurious to the neighborhood. He states that he has heard their voices today and is compelled by them. His proposal is that they pass this matter for 60 days, so the applicant and neighbors have a chance to sit down and talk and get a better understanding about the plan and their issues addressed and to speak to city councilors. This board is powerless for the bigger issue.

Ms. Radney asks if they said they intended to use the property for cultivation or if the applicant was just saying they can use it by, right?

Mr. Bond further encourages the parties to talk. He wants the parties to be aware there are ways to change zoning in the city outside of this board.

Ms. Radney also adds an observation that this board is only requires to mail notices to neighbors that live within 300ft, but there are very active homeowner associations and stakeholders in the area and she encourages the parties to reach out to them because they are very active and vocal.

Board Action:

On **MOTION** of **Radney**, the Board voted 4-0-1 (Barrientos, Bond, Wallace, Brown, "aye"; "nays"; one Radney "abstentions"; none absent) to **CONTINUE** the requested **SPECIAL EXCEPTION** to permit a Moderate-impact Medical Marijuana Processing (Moderate-impact Manufacturing and Industry) Use in the IL District (Sec. 15.020, Table 15-2) to the April 12, 2022, meeting.

TR BEG 30S & 50E NWC S/2 SW NW TH S153.62 E999.11 N153.61 W998.97 POB SEC 20 20 13 3.524ACS; N18.75 S/2 N/2 S/2 SW NW LESS E271.27 THEREOF & LESS W50 THEREOF FOR RD SEC 20 20 13 .429AC; TR BEG 317.13N & 50E SWC NW TH E998.46 N140.31 W998.71 S139.87 POB SEC 20 20 13 3.216ACS; BEG 50E & 158.62N SWC SW NW TH N158.62 E610.19 S94.21 SW334.06 W287.9 POB SEC 20 20 13 2.039ACS; BEG 158.62N & 50E SWC SW NW TH S71.37 NELY298.43 TH W287.9 POB SEC 20 20 13,

23262- Ryan Neurohr, Image Builders

Action Requested:

Special Exception to permit a Dynamic Display sign in a Residential District containing a School Use (Sec. 60.050-B.2.c) **Special Exception** to permit a dynamic display sign within 200-feet of Residentially Zoned Lots (Sec.60.100-F)

LOCATION: 1924 N. Martin Luther King Jr. Blvd. E. **(CD 1)**

Presentation:

Ryan Neurohr- 4132 E 41st St.

Mr. Neurohr is requesting a special exception to allow a dynamic display in a residential area for Burroughs Elementary. They will be moving the new sign to a different location on the property due to a crosswalk that was installed close to the existing sign. They are relocating the sign to meet the setback requirements. The new signs being installed have the cloud-based software that allows oversight from a central location so headquarters will have control over all the dynamic display signs across the school district, so they stay within the city codes. The units also come with automatic dimming capabilities that will adjust based on the ambient light outside.

Mr. Wallace asks the applicant if the digital sign is large enough for that thoroughfare to be legible? Mr. Neurohr responds that the size of the text will be easily large enough to be visible, especially through the school zone with the 25 mph speed limit.

No feedback from neighbors.

Interested Parties:

No interested parties.

Comments and Questions:

No additional comments or questions.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Barrientos, Bond, Wallace, Radney, Brown "aye"; "nays"; no "abstentions"; none absent) to **APPROVE** a **SPECIAL EXCEPTION** to permit a Dynamic Display sign in an Residential District containing a School Use (Sec. 60.050-B.2.c) **SPECIAL EXCEPTION** to permit a dynamic display sign within 200-feet of Residentially Zoned Lots (Sec. 60.100-F) per the conceptual plans 9.12-9.17 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:

NE NE SE SEC 26 20 12 10AC

23263- Ryan Neuhor, Image Builder

Action Requested:

Special Exception to permit a Dynamic Display sign in a Residential District containing a School Use (Sec. 60.050-B.2.c) Special Exception to permit a dynamic display sign within 200-feet of Residentially Zoned Lots (Sec. 60.100-F)

LOCATION: 6960 E 21st St (CD 5)

Presentation:

Ryan Neuhor- 4132 East 41st Street

Mr. Neuhor requesting a special exception to allow a dynamic display sign in a residential area for school use for McArthur Elementary. They will be moving the existing sign back 7ft to meet the setback requirements. The new signs being installed have the cloud-based software that allows oversight from a central location so headquarters will have control over all the dynamic display signs across the school district, so they stay within the city codes. The units also come with automatic dimming capabilities that will adjust based on the ambient light outside.

The new sign will be located off of 73rd East Avenue.

No feedback from neighbors

Interested Parties:

There were no interested parties

Comments and Questions:

Mr. Brown asks if the sign will be placed on the existing pole? Mr. Neuhor replies that no, it will be getting a new pole since the existing pole needs to be moved back 7ft to meet the setback requirements.

Board Action:

On **MOTION** of **BARRIENTOS**, the Board voted 5-0-0 (Barrientos, Bond, Wallace, Radney, Brown "aye"; "nays"; no "abstentions"; none absent) to **APPROVE** a **SPECIAL EXCEPTION** TO permit a Dynamic Display sign in an Residential District containing a School Use (Sec. 60.050-B.2.c) and **SPECIAL EXCEPTION** to permit a dynamic display sign within 200-feet of Residentially Zoned Lots (Sec. 60.100-F) per the conceptual plans 10.12-10.18 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:

NE NW SEC 14 19 13,

23264- Ryan Neuhor, Image Builders

Action Requested:

Special Exception to permit a Dynamic Display sign in a Residential District containing a School Use (Sec. 60.050-B.2.c) **Special Exception** to permit a dynamic display sign within 200-feet of Residentially Zoned Lots (Sec. 60.100-F)

LOCATION: 10620 E 27th St. S (CD 6)

Presentation:

Ryan Neuhor- 4132 East 41st Street

Mr. Neuhor requesting a special exception to allow a dynamic display sign in a residential area for school use for Delores Huerta Elementary school. The new sign will be repositioned so both sides of the sign are visible, which will be the only change of the placement in comparison to the existing sign. The new signs being installed have cloud-based software that allows oversight from a central location so headquarters will have control over all the dynamic display signs across the school district, so they stay within the city codes. The units also come with automatic dimming capabilities that will adjust based on the ambient light outside.

Interested Parties:

There were no interested parties

Comments and Questions:

No additional comments or questions

Board Action:

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Barrientos, Bond, Brown, Radney, Wallace "aye"; no "nays"; no "abstentions"; none absent to **APPROVE** a **SPECIAL EXCEPTION** TO permit a Dynamic Display sign in an Residential District containing a School Use (Sec. 60.050-B.2.c) and **SPECIAL EXCEPTION** to permit a dynamic display sign within 200-feet of Residentially Zoned Lots (Sec. 60.100-F) per the conceptual plans 11.11-11.17 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:

BEG 201.7E & 370.37S NWC SE S646 E540.9 NE563.5 W339.24 CRV 98.17 N21.5 W178.23 TO POB SEC 18 19 14,

23265- Ryan Neuhor, Image Builders

Action Requested:

Special Exception to permit a Dynamic Display sign in a Residential District containing a School Use (Sec. 60.050-B.2.c) **Special Exception** to permit a dynamic display sign within 200-feet of Residentially Zoned Lots (Sec. 60.100-F)

LOCATION: 737 S Garnett Rd. E. (CD 3)

Presentation:

Ryan Neuhor- 4132 East 41st Street

Mr. Neuhor requesting a special exception to allow a dynamic display sign in a residential area for school use for Lewis & Clark Elementary School. The new sign will be repositioned to meet the 65ft setback requirement. The new signs being installed have cloud-based software that allows oversight from a central location so headquarters will have control over all the dynamic display signs across the school district, so they stay within the city codes. The units also come with automatic dimming capabilities that will adjust based on the ambient light outside.

Mr. Brown asks the applicant if the new sign is taller than the other signs? Mr. Neuhor replies no, it will be consistent with the other signs, but this will be taller than the existing sign because the school likes to have them higher to prevent vandalism. The height does not affect the special exception requested.

Interested Parties:

There were no interested parties.

Comments and Questions:

No additional comments or questions.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Barrientos, Bond, Wallace, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** a **SPECIAL EXCEPTION** TO permit a Dynamic Display sign in an Residential District containing a School Use (Sec. 60.050-B.2.c) **SPECIAL EXCEPTION** to permit a dynamic display sign within 200-feet of Residentially Zoned Lots (Sec. 60.100-F) per the conceptual plans 12.12-12.18 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:

**BEG 814N & 65E SWC SW TH N649.92 E459.78 NE482.26 SLY590 SW891.34 W172
POB SEC 5 19 14 14.030ACS**

23266-Ryan Neuhor, Image Builders

Action Requested:

Special Exception to permit a Dynamic Display sign in an Residential District containing a School Use (Sec. 60.050-B.2.c) **Special Exception** to permit a dynamic display sign within 200-feet of Residentially Zoned Lots (Sec. 60.100-F) **Variance** to exceed the allowed display area for a freestanding sign (Sec. 60.050-B.1.b)

LOCATION: 6304 E. Admiral Blvd. S. (CD 5)

Presentation:

Ryan Neuhor- 4132 East 41st Street

Mr. Neuhor requesting a special exception to allow a dynamic display sign in a residential area for school use for Bell Elementary. The applicant is asking on a variance on this application because the school covers an area of three blocks. The variance allows the sign to be installed as planned.

The new signs being installed have cloud-based software that allows oversight from a central location so headquarters will have control over all the dynamic display signs across the school district, so they stay within the city codes. The units also come with automatic dimming capabilities that will adjust based on the ambient light outside.

Interested Parties:

Ellen Decker- 4444 Oakgrove

Ms. Decker would like to provide a little more history about the buildings and schools. She states the buildings were originally built in 1960 and it was Bell Jr High school and Burbank Elementary school. Burbank closed and it is now leased as a charter school. TPS has not sought to combine the two lots. Ms. Decker continued to state that this is one of their larger school sites.

Comments and Questions:

Mr. Brown inquires if the other two lots are vacant? Mr. Neuhor responds that he believes all buildings touch some parts of the lot. Mr. Chapman clarifies that the school is two different schools, one is a charter school that TPS leases out to. They are split along the lot lines.

Board Action:

On **MOTION** of **BROWN**, the Board voted 5-0-0 (Barrientos, Bond, Wallace, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** a **SPECIAL EXCEPTION** to permit a Dynamic Display sign in an Residential District containing a School Use (Sec. 60.050-B.2.c) **SPECIAL EXCEPTION** to permit a dynamic display sign within 200-feet of Residentially Zoned Lots (Sec. 60.100-F) per the conceptual plans 13.13-13.18 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. **APPROVE** a **VARIANCE** to exceed the allowed display area for a freestanding sign (Sec. 60.050-B.1.b) finding the hardship to be a combination of two schools and this is a replacement of an already non-conforming sign per the conceptual plans 13.13-13.18 of the agenda packet. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose.
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification.
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner.
- e. That the variance to be granted is the minimum variance that will afford relief.
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan, for the following property:

LTS 6 TO 11 INCL BLK 7, BERRYMAN ESTATES

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OTHER BUSINESS

None.

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NEW BUSINESS

None.

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BOARD MEMBER COMMENTS

Mr. Brown noted that the minutes submitted are good, and well put together and understandable.

Mr. Chapman introduces Ms. Robi Jones, she will be the attending planner at the 2/22/2022 meeting.

Mr. Bond would like to thank council for their guidance on a complicated issue. He would also like to say that he has a picture in his office of Greenwood and Archer in 1953 and it is a vibrant community, and he makes an acknowledgement of the Greenwood banners in the chambers. He states the city burnt down Greenwood and the direct and lineal predecessors that set on this board came in and rebuilt with zoning and he thanks the Vice Chair for reminding him of that.

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There being no further business, the meeting adjourned at 2:56 pm.

Date approved: 3/22/22



Chair