

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1291
Tuesday, March 22, 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 Radney, Vice Chair Barrientos Wallace Brown, Secretary		D. Wilkerson S. Kelvington K. Davis A. Chapman	A. Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on March 16, 2022, at 2:31 p.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:

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

MINUTES

On **MOTION** of **BROWN**, the Board voted 5-0-0 (Barrientos, Bond, Brown, Radney, Wallace "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the February 8, 2022, Board of Adjustment meeting No. 1288.

On **MOTION** of **BROWN**, the Board voted 5-0-0 (Barrientos, Bond, Brown, Radney, Wallace "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the February 22, 2022, Board of Adjustment meeting No. 1289.

UNFINISHED BUSINESS

23271- Lori Worthington / AMAX Sign Company

Variance to allow free standing signs within 30-feet of other freestanding signs (Sec. 60.040-B-2) **Variance** to allow more than one free standing sign and more than one dynamic display sign per street frontage in the RD District (Sec. 60.050-B-2.b;c.1) **Special Exception** to permit a Dynamic Display sign in an Residential District containing a Church 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:** 7100 E. 31st Street **(CD 5)**

Presentation:

Lori Worthington- 9520 E 55th Place

The church did receive a quote for a dimmer to be placed on the front lights that illuminate the existing sign on the front of the brick wall. The lights will have the auto dimmer which will operate the same hours as the proposed new LED signs.

Mr. Bond calls Ms. Worthington back up to speak. Ms. Worthington states that she was expecting to have a representative from the church to speak and answer questions, but she did not have one present.

On behalf of the church Ms. Worthington agrees to the neighbors' requested hours of operations for the lights, 8 a.m.-9 p.m.

Interested Parties:

Jane Wheeler- 3015 S 69th East Ave

She has spoken to several of their neighbors, and they would like to have the hours of operations for the signs to be between the hours of 8 a.m. – 9 p.m. All neighbors are agreeable with those hours. Ms. Wheeler states that the church has still not reached out to her.

Comments and Questions:

Mr. Wilkerson says he tries to put himself in the shoes of the inspector and it is hard to enforce the watts of the illumination without specifics, that it is easier to regulate the hours of operations rather than the schedule of a dimmer.

Mr. Bond states that he truly appreciates the compromise between the church and the neighbors and their ability to work together on this case.

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 Church 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 3.11-3.14 of the agenda packet subject to the following condition that all illuminated signs on the property are to be turned on no earlier than 8 a.m. in the morning and turned off by 9 p.m. in the evening and that all existing signage do not exceed the current light standards per the current code. 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 allow free standing signs within 30-feet of other freestanding signs (Sec. 60.040-B-2) **VARIANCE** to allow more than one free standing sign and more than one dynamic display sign per street frontage in the RD District (Sec. 60.050-B-b;c.1) finding the hardship to be the significant setback from the roadway and the need to direct traffic and activities on and off the site. Per the conceptual plans 3.11- 3.14 of the agenda packet and subject to the following condition that all illuminated signs on the property are to be turned on no earlier than 8am in the morning and turned off by 9 p.m. in the evening and that all existing signage do not exceed the current light standards per the current code. 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, WOODLAKE VILLAGE B1

NEW APPLICATIONS

23287- Luis Ozoria

Action Requested:

Special Exception to permit a Personal Vehicles Sales and Rental Use in the CS District (Sec. 15.020, Table 15-2)

LOCATION: 11320 E. 20th St. S.; Tenant Space: 2002 South 114th E. Ave.
(CD 6)

Presentation:

Luis Ozoria- 1104 S 32nd Street

Mr. Ozoria is the owner of the business and is currently looking to relocate his business. He is a one-person car sales business. He will have indoor and outdoor vehicle sales with minor car repair on the vehicles he will be selling. Mr. Ozoria has spoken with his neighbors, and they have not expressed any concerns.

Ms. Radney asks if the lot is already lined for parking? Mr. Ozoria replies no, but he is aware he needs to do that to stay compliant with the city's required parking standards.

Interested Parties:

No Interested Parties.

Comments and Questions:

No additional comments

Board Action:

On **MOTION** of **Radney**, the Board voted 5-0-0 (Bond, Brown Radney, Wallace, Brown, "aye"; no "nays"; one Radney "abstentions"; none absent,) to **APPROVE** a **SPECIAL EXCEPTION** to permit a Personal Vehicles Sales and Rental Use in the CS District (Sec. 15.020, Table 15-2) per the conceptual plans 4.6 of the agenda packet and per the condition that there will not be any outdoor vehicle repairs and that the vehicles stored on the property are vehicles that are for sale and operable. 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 6 BLK 1,21 GARNETT PLACE RESUB PRT L1 & L2-3 GARNETT PLAZA

23288- Wayne Keith

Action Requested:

Special Exception to permit a Personal Vehicles Sales and Rental Use in the CS District (Sec. 15.020, Table 15-2)

LOCATION: 1212 N Mingo Road **(CD 3)**

Presentation:

Wayne Keith- 16139 E Newton St

Previously has owned a car lot on 11th street for 14 years, but a year ago he contracted COVID which took a toll on him, and he was displaced by the landlord, so he has to look for a new location. He will not be servicing the cars; he will only have 4-6 vehicles for sale on his lot. He will be moving into and sharing a building with his nephew who owns an electrical company.

Applicant has not spoken with any of his neighbors.

Mr. Brown asked if there would be pole lights on the property? Mr. Keith responded no.

Ms. Radney asks the applicant where the employees for the electrical company park. Mr. Keith responds they park inside the chain linked fence that is to the north side of the building, which is the backside of the building. Mr. Keith adds the electric company only has 4 employees that park within the fenced area and a few company vehicles.

Ms. Radney asks the applicant where he will be parking his vehicles on the property. Mr. Keith responds they will be parked on the concrete along the north and south side of the building, outside of the chain link fence.

Mr. Chapman states that he spoke with Mr. Keith as he was submitting his application and was led to believe the vehicles would be parked inside and that he would not be storing them outside due to being within 300-feet of a residential area.

Mr. Bond asks if they need to submit a new application? Mr. Chapman replies no, if they store the vehicles inside except when transporting them or showing them to customers one at a time. Mr. Keith responds that it will not be a problem storing the vehicles indoors.

Interested Parties:

No interested parties.

Comments and Questions:

No additional comments or questions.

Board Action:

On **MOTION** of **Barrientos**, the Board voted 5-0-0 (Bond, Barrientos Wallace, Radney, Brown "aye"; "nays"; no "abstentions"; none absent) to **APPROVE** a **SPECIAL EXCEPTION** to permit a Personal Vehicles Sales and Rental Use in the CS District (Sec. 15.020, Table 15-2) per the conceptual plan 5.6 of the agenda packet and with the condition that all vehicles are kept inside the building on the property at all times. 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 2 BLK 1, BUTLER PARK

23291- Dasia McClellan

Action Requested:

Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from other medical marijuana dispensaries (Section 40.225-D)

LOCATION: 5824 S. Peoria Ave. **(CD 9)**

Presentation:

Dasia McClellan- 616 S Main Street – 2 Main Plaza Suite 0112

Kayla Lee- 616 S Main Street – 2 Main Plaza Suite 0112

Their client would like to place a dispensary in a location that is too close to an existing dispensary. They are seeking clarification on what their options are for their client's property. When they originally filed the application, they were just within the 1000- foot requirement, but since then another medical dispensary moved in.

Mr. Bond asks if the two existing dispensaries have a certificate of occupancy and if they are in use right now? Ms. McClellan replies that she believes Top Shelf is operational, but she can not speak about the dispensary that is the closest to this property.

Mr. Chapman replies that the board has previously heard cases on both dispensaries and that one of the businesses moved to a new location around the corner. Mr. Chapman said that he is not sure if the location closest to this applicant is open yet, but they seem on track to open and have all of their permits that are needed in place.

Mr. Bond speaks about hardships and how they are defined and that he needs to hear an articulated hardship for this property to grant any relief on this application. He wishes he could give them more clarity on this matter, but he states that it is new law, and it has been an area of frustration for the board and city.

Ms. McClellan biggest questions is why was the 2nd location allowed to build and open? Mr. Bond does not have an immediate response; he would need to go back and review the minutes on why the relief was granted.

Ms. Radney states that she does not remember the case that was previously heard, and she asks city staff which of the two applicants / buildings requested the variances? Mr. Chapman replies that he will not speak about some of the personal conflict between the two previous property owners, but this was a dispensary that the occupants were leasing, and it was bought by a new property owner that chose to not renew the lease. This business negotiated with the city to relinquish their permits and get permits at the new location. The new property owners came to the board to seek relief on to the 1000-foot to use the building as they had intended. Mr. Chapman says it appears this other location has their permits in order and seem ready to open their business.

Interested Parties:

Dan Guterman- 10708 S Holley Street West

Mr. Guterman owns the building to the north of the property listed on this application and he receives several calls a week about his property from parties interested in opening another dispensary, to which he declines their requests. Mr. Guterman believes they do not need another dispensary in this area. The others have already caused an increase in crime and police activity.

Comments and Questions:

No additional comments.

Board Action:

On **MOTION Radney** of ,the Board voted 5-0-0 (Bond, Barrientos Wallace, Radney, Brown "aye"; "nays"; no "abstentions"; none absent) to **DENY** a **VARIANCE** of the 1,000-foot spacing requirement for a medical marijuana dispensary from other medical marijuana dispensaries (Section 40.225-D) For the following property:

LTS 5 6 7 & 8 BLK 1,BROADVIEW HGTS ADDN

23293- Matthew Mosley

Action Requested:

Special Exception to permit a duplex in an RS-3 District (Table 5.020, Table 5-2) ~~Variance of the required 25-foot street setback from N. Rockford Ave. (Sec. 5.030-A; Table 5-3); Variance of the 15-foot street building setback and 20-foot garage door setback from Woodrow Pl. (Sec. 5.030-B, Table Note 3)~~

LOCATION: 2145 N. Rockford Ave E. **(CD 1)**

Presentation:

Michael Miles- 2145 N Rockford Ave

Mr. Miles is the builder and representing the property owner. They are proposing to build a duplex on the corner of Woodward and Rockford Ave. They will be building two new units. He has spoken to neighbors, and they are excited.

Interested Parties:

Delana Jackson- 2119 N. Quincy Ave

Ms. Jackson would like to ask if the new duplexes will be a business or residential property? Mr. Bond replies yes, they it will be residential.

Ms. Jackson asks what the square footage is for the duplexes? Mr. Miles replies that each unit will be 1,225 sq. ft. each.

Elizabeth Bate- 2217 N Rockford Ave

Ms. Bate is against the duplex being built and it was unknown to her that the new build was going to be a duplex. Ms. Bate believes that the neighborhood is and has been a single-family home area. She believes that this proposal will change the dynamics of the neighborhood and that it will completely change the area. Ms. Bate states that the builder has not spoken to her or three other neighbors. Ms. Bate acknowledges that the previous home on that property had burnt down, but they were under the impression that a new custom home would be built but they were unaware it was going to be a duplex.

Rebuttal:

Mr. Miles would like to say that he grew up in the area and is familiar with the homes. This property will be of average size and have the appearance of a single-family home. He believes it will be good for the residents and neighborhood and they intentionally designed it to blend in with the area. Mr. Miles does understand the neighbors' concerns, but believes it will bring more value to the surrounding homes in the neighborhood.

Ms. Radney asks Mr. Miles about the owner's intentions on the property. Will he be leasing or selling the property? Mr. Miles replies that he is currently undecided on his intentions for the property.

Mr. Bond asks if there are other duplexes in the neighborhood. Mr. Miles replies that there is a very old duplex around the corner in the neighborhood.

Ms. Radney inquires how the plan changed so that it no longer requires a variance on the application. Mr. Chapman says the applicants site plans had the wrong right-of-way listed on it. The current plans have been corrected to show the correct distance of a 30-foot setback.

Comments and Questions:

Mr. Bond sees that this is a single-family home neighborhood, so this application is a tough decision for him.

Mr. Brown believes that the proposed duplex mostly fits and he does not see it lowering the value of the surrounding properties. He views this as a plus for the neighborhood.

Mr. Barrientos agrees with Mr. Brown.

Ms. Radney asks if the curb cut for the duplex will stay as is or change? Mr. Miles responds that it will stay the same.

Mr. Wallace feels it is wrong to go against such a nice, proposed property for the area. He believes that is a good investment to the area.

Ms. Radney states that she is torn, but she feels that the builder has persuaded her. She does agree that the neighborhood that is directly to the north is a historic middle class African American neighborhood, but the homes on this side of the neighborhood are around the same size as the individual units in the duplex. Ms. Radney is more inclined to support the plan as is since it faces Woodrow Ave because adding a duplex on the Rockford side could possibly change the nature of how the neighborhood sits. She also agrees from a resale standpoint that being across the street from the school it would be hard to sell and resale as a single family home due to traffic from the schools. She feels this is a decent infill project for the property.

Board Action:

On **MOTION** of **Barrientos**, the Board voted 3-1-1 (Barrientos, Brown, Wallace "aye"; one "nays" Bond; one "abstentions", Radney; none absent to **APPROVE Special Exception** to permit a duplex in an RS-3 District (Table 5.020, Table 5-2) ~~Variance of the required 25-foot street setback from N. Rockford Ave. (Sec. 5.030-A; Table 5-3); Variance of the 15-foot street building setback and 20-foot garage door setback from Woodrow Pl. (Sec. 5.030-B, Table Note 3)~~ per the conceptual plans 8.18-8.13 of the agenda packet. The Board finds that the requested Special Exceptions 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 1 BLK 1, WOODROW PARK ADDN

23294- Raul Cisneros

Action Requested:

Special Exception to reconstruct a structure with a non-conforming setback (Sec. 80.030-D)

LOCATION: 1902 W. Cameron Ave. St. N. **(CD 4)**

Presentation:

Jennifer Samuelson- 10735 S Canton Ave

She is assisting on this project and is handling some of the design work on the project. They are replacing a pre-existing wrap around porch to a home. The foundation was failing on the home and on the porch.

All neighbors have been very happy and in support of the remodel.

Mr. Bond asks if this is a complete replacement of the home? Ms. Samuelson replies no, it is just work on the crawl space and foundation. They are replacing what previously existed and adding a second story.

Mr. Bond asks when the home was built. Ms. Samuelson believes it was built between 1910-1920's based on the age of the other homes in the area.

Mr. Chapman adds that staff was a little taken back when they visited the site and saw it was already built and asks Ms. Samuelson if there was an issue with the permits or if they weren't filed before the porch was built? Ms. Samuelson could not answer that question.

Interested Parties:

There were no interested parties.

Comments and Questions:

Mr. Bond says this is a special exception being requested and it does not seem harmful to the neighborhood.

Ms. Radney says that what they see is an existing non-conforming structure and they are adding a second story to that. She would also like to show for the record how much relief they are granting with this special exception.

Board Action:

On **MOTION** of **Radney**, the Board voted 5-0-0 (Bond, Barrientos Wallace, Radney, Brown "aye"; "nays"; no "abstentions"; none absent) to **APPROVE** a **SPECIAL Exception** to reconstruct a structure with a non-conforming setback (Sec. 80.030-D) Per the conceptual plans 9.8 – 9.13 of the agenda packet. Subject to the relief being granted matches the original footprint prior to the current construction and that the architect submits new drawings with the correct right of way width. 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 1 BLK 19, IRVING PLACE

23295- 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 or Residential Development Area (Sec. 60.100-F

LOCATION: 1442 E 36 ST S (Eliot Elementary) **(CD 9)**

Presentation:

Walter Moore- 204 East 5th Ave

Mr. Moore is the Director of Operations for Image builders and is there on behalf of the applicant, Ryan Neuhor. They are seeking a special exception for a dynamic display for Springdale Elementary. Tulsa Public schools have an initiative to replace all their signs to dynamic displays, so their messages are easily displayed in multiple languages to meet their community’s needs, to quickly share emergency information as needed and to share school events. The new displays will be able to be controlled across the district by the Education Service Center technology department. The new displays will have an automatic timer and dimmer that will function with in the city code and operate from

7am-9pm. The existing sign was built using alumni donations and they will use the existing bricks in the new sign to commemorate those alumni.

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, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **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 or Residential Development Area (Sec. 60.100-F. Per the conceptual plans 10.12-10.20 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:

LTS 1 10 INC BLK 1,LEOKI PLACE

23296- Keri Kraus

Action Requested:

Special Exception to increase the permitted driveway width (Sec. 55.090-F)

LOCATION: 4749 S. Columbia Pl (**CD 9**)

Presentation:

Keri Kraus- 4749 S Columbia Place

Ms. Kraus is seeking a special exception so they can access a 3rd garage on the property where an old metal carport once stood, and they need a driveway to approach the new garage. The total width of the driveway will be 42-feet.

No issues with neighbors that are supportive.

Interested Parties:

No interested parties.

Comments and Questions:

Mr. Bond does not have any issues with this request and states it is typical for the homes in this area.

Mr. Brown is surprised by the design and says it is minimally intrusive and a good addition to the property.

Board Action:

On **MOTION** of **Barrientos**, the Board voted 5-0-0 (Barrientos, Bond, Wallace, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** a **SPECIAL EXCEPTION** to increase the permitted driveway width (Sec. 55.090-F). Per the conceptual plan 11.5 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:

W. 200 OF LT 21 BLK 1,VILLA GROVE SUB

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OTHER BUSINESS

None.

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NEW BUSINESS

None.

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BOARD MEMBER COMMENTS

None.

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There being no further business, the meeting adjourned at 2:31 pm.

Date approved: 04/12/2022



Chair

TULSA CITY BOARD OF ADJUSTMENT
CASE NO. _____
OFFICIAL RECORD EXHIBIT
ENTERED IN THE 04/12/2022
MINUTES OF THE TULSA CITY BOARD
OF ADJUSTMENT

